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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE 30th MEETING*

Held at the Palais des Nations, Geneva,
on Tuesday, 16 November 1999, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Third periodic report of Bulgaria (HRI/CORE/1/Add.81; E/1994/104/Add.16; E/C.12/Q/BUL/1; written replies to the list of issues and additional statistics supplied by the Government of Bulgaria (documents without a reference number))

1. At the invitation of the Chairperson, the members of the delegation of Bulgaria took places at the Committee table.

2. The CHAIRPERSON welcomed the Bulgarian delegation and invited it to make an introductory statement.

3. Mr. DRAGANOV (Bulgaria) said that the third periodic report (E/1994/104/Add.16) had been drafted in 1994-1995, while the written replies to the list of issues (E/C.12/Q/BUL/1) had been prepared in 1998. They sought to reflect the current situation of economic, social and cultural rights in Bulgaria.

4. The Republic of Bulgaria had made it its mainstream policy to ensure, through legislation and practice, the effective overall protection of human rights and freedoms, and to provide for the interests and needs of the individual. The preamble of the Constitution adopted in 1991 proclaimed Bulgaria a social and constitutional State. Respect for and guaranteeing of fundamental economic, social and cultural rights determined State policy. He wished to draw attention to some of the factors that had affected the formulation of such policy during the reporting period.

5. Since the presentation of the first and second periodic reports in 1984 and 1987 respectively, radical political, economic and social changes had taken place in Bulgaria. The single-party system having been eliminated, conditions had been created for the development of political pluralism and the establishment of a modern, democratic State in which the rule of law prevailed. The new Constitution provided the legal foundations for a society based on the principles of democracy, political pluralism, law and order, and free enterprise. The replacement of a command economy by a free-market system had greatly improved opportunities for private and social initiative.

6. Although democratization had had a positive impact on the legal framework and conditions relevant to the exercise of fundamental economic, social and cultural rights, it had also posed serious problems for the State and citizens. A number of factors, including the collapse of eastern European economic integration, international sanctions, the crises in the former Yugoslavia and other financial restrictions, had taken their toll on the Bulgarian economy and its State enterprises. Since the process of privatization had initially been slow, foreign investment had been limited, the agrarian reform had not met with immediate success. As a

result, gross national product (GNP) and in particular the production levels of major economic sectors had reached an unprecedented low. For the first time Bulgaria had been confronted with problems such as unemployment, drug trafficking and high crime rates.

7. Notwithstanding the achievements of the period of transition, such as greater opportunities for the protection and realization of fundamental human rights, and, in particular, of economic, social and cultural rights, there were many unresolved problems. Such problems must be highlighted, not so as to justify the Government, but in order to account for some of the negative trends affecting the process of guaranteeing the economic, social and cultural rights of Bulgarian citizens and to explain the specific circumstances in which the Covenant was being implemented.

8. For a variety of reasons the preparation of the third periodic report had been started as early as 1994 but had been completed only in 1999. Naturally, during that five-year period considerable economic and social changes had taken place which affected the implementation of fundamental economic, social and cultural rights. Some of the information contained in the report, and even in the written replies, was therefore out of date. Important developments had occurred in 1999, the more significant of which were presented in the form of additional statistics, which were now available for consultation. Other relevant points would be dealt with in the course of the dialogue.

9. With regard to the general framework of the Covenant's implementation (section I of the list of issues), important achievements during the reporting period included the introduction of a legal defender of fundamental human rights and the recognition of the jurisdiction of the European Court of Human Rights in Strasbourg. It was expected that those measures would enhance the significance of the rights enshrined in the Covenant and the responsibility of State bodies for their implementation.

10. Non-governmental organizations (NGOs) dealing with human rights, including economic, social and cultural rights, had come to play an increasingly important role in recent years. The State ensured the necessary conditions for and encouraged the activities of such organizations. Some NGOs had contributed to the preparation of the report.

11. The CHAIRPERSON said it was the Committee's established practice to conduct its dialogue with delegations on the basis of the list of issues. Since the Bulgarian delegation had already dealt with section I of the list of issues in its introductory statement, she would invite Committee members to put questions on that section before the delegation proceeded with the next part of its introduction.

12. Mr. GRISSA noted that according to the demographic statistics contained in the core document (HRI/CORE/1/Add.81), between 1980 and 1995 there had been a decline in the population of Bulgaria of around half a million. Was that due to the forced migration of the ethnic Turkish minority in the 1980s or were other factors involved?

13. Mr. ANTANOVICH said that although in general he had been greatly impressed by the comprehensive nature of the written replies submitted by Bulgaria, not enough information had been provided in response to the affirmation in paragraph 4 of the list of issues that in practice

discrimination still existed against the Roma minority in respect of education, work and social benefits. In particular, he would welcome further details of any special measures taken to involve Roma children and their parents more closely in education.

14. Mr. RIEDEL said he welcomed the information provided in the written replies on the implementation and direct applicability of the Covenant in the Bulgarian legal system. A number of relevant cases had been listed - an example which other States parties would do well to follow. However, in response to the query about the adoption of an optional protocol to the Covenant, the Government had merely stated that it would in principle consider favourably the adoption of such an instrument. Regrettably, the response of States parties to the proposal for an optional protocol had not been as positive as the Committee had expected. Given that Bulgaria did not object to the idea, more information would be appreciated on the type of approach it favoured, for instance, one based on violations or alternatively a complaints procedure referring to the whole Covenant or to a limited number of provisions.

15. According to the written replies, the Covenant was directly applicable in domestic law and courts would take cognizance of its provisions. However, he wondered to what extent court judgements had referred directly to articles 6-8 or other specific rights enshrined in the Covenant, and asked for some illustrative examples.

16. Mr. CEAUSU said that in its written reply to the first question on the list of issues Bulgaria had referred to case law relating mainly to labour disputes. However, what the Committee really wanted to know was whether citizens could invoke the provisions of the Covenant in courts of law to defend their rights or to lodge a complaint against some entity or person. That was what was meant by the direct applicability of the Covenant in the domestic courts.

17. Mr. SADI said that since by virtue of article 5 (4) of the Bulgarian Constitution the Covenant was considered part of domestic legislation and was thus directly applicable in the courts of law, he failed to understand why Bulgaria merely favoured the idea of an optional protocol in principle. The fact that the Constitution could be invoked in the courts should present no obstacle to the adoption of such an instrument. Why, therefore, could Bulgaria not go one stage further and accept the idea of an optional protocol in absolute terms? As he had not seen the text of article 5 (4) of the Constitution, he requested the delegation to explain how exactly the Covenant had been rendered part of domestic legislation and thus directly applicable in the national courts of law.

18. Mr. THAPALIA noted that according to a number of sources, despite the fact that the new Constitution provided for individual rights, equality and protection against discrimination, in practice discrimination still existed, especially vis-à-vis women and the Roma minority.

19. In a report published in January 1998 by the Committee on the Elimination of Discrimination against Women it was claimed that no special laws had been passed to ensure de facto equality of women and that the Government had shown no commitment to introducing any measures along those lines in the near future. Had the transition from communism to a more democratic regime resolved the problem of discrimination and, if so, could the delegation provide substantiating evidence?

20. Mr. RATTRAY said that, in seeking a better understanding of the measures taken to enforce the rights enshrined in the Covenant, it was important to recognize that Bulgaria was undergoing an extremely difficult period of transition. In that connection, how did the delegation view the current macroeconomic reforms? Was it likely that society would eventually reap the benefits of such reforms and, if so, when? Or did the delegation harbour some suspicions that the course currently being followed might be flawed?

21. With regard to the incorporation of the Covenant in domestic legislation, the fact that the case law referred to in the written replies concerned only work-related rights implied that, in terms of justiciability, the Bulgarian Government might make some differentiation between the various rights enshrined in the Covenant. For instance, were the rights to housing, food and education considered as falling into a different category from work-related rights?

22. Lastly, did the Bulgarian Government regard the Covenant as an instrument which imposed obligations exclusively on the State, or as also conferring rights and imposing obligations on one citizen vis-à-vis another?

23. Mr. TEXIER, noting the reference in the written replies to the broad participation of NGOs in the preparation of the third periodic report, sought details of the consultation process. Had the NGOs in question been consulted before or after the drafting of the report? He also welcomed the indication that the report and the Committee's concluding observations thereon would be publicized: it was important for the Committee to know that its dialogue with States parties and any recommendations made as a result would be properly followed up.

24. Mrs. JIMÉNEZ BUTRAGUEÑO welcomed the news of the introduction of a human rights defender and requested more information on the subject. She also asked whether there were any special programmes to ensure equal rights for the Roma minority, in particular with regard to the education of Roma children.

25. Mr. HUNT said that mention had been made in paragraph 33 of the core document of a standing commission on human rights set up by the National Assembly. National human rights institutions had a central role to play in the protection of human rights. He would therefore welcome information as to whether any such institutions existed in Bulgaria; whether their mandates extended to economic, social and cultural rights, and whether they needed to be further strengthened.

26. The CHAIRPERSON said that in view of the number of questions raised, the Bulgarian delegation might wish to answer the questions relating to discrimination at a later stage in the proceedings.

27. Mr. DRAGANOV (Bulgaria) said that the decline in the population of Bulgaria was not attributable to the exodus of ethnic Turks under the pre-1989 regime. Most of the people forced to flee the country during that period had since returned, had had their property restored to them, and had secured political representation. Bulgaria currently had the highest negative population growth in Europe, owing mainly to the unfavourable economic climate.

28. Mrs. SREDKOVA (Bulgaria) said that article 5 (4) of the Bulgarian Constitution provided that the Covenant and other international instruments to which Bulgaria was a party should be promulgated as part of domestic law. In the event of a conflict of laws, the international instruments would prevail. The Covenant, which had thus become an integral part of Bulgarian law, not only placed obligations on the State to establish the conditions for its implementation, but also endowed citizens with direct rights. The infrequency with which the international instruments had been directly cited could be attributed to the lack of experience of Bulgarian judges, who often invoked Bulgarian law instead of the Covenant. However, changing a way of life was not enough. Ordinary citizens must also change their attitudes, a process that took time.

29. Many NGOs had been invited to contribute to the preparation of the report, and a few had responded. Questionnaires had been sent to the most representative trade unions and other bodies, including the National Commission for Human Rights and the Democratic Women's Union. Some of their comments had been incorporated in the report, which had been submitted to 17 NGOs with an invitation to attend a meeting to discuss it late in 1995. Some had participated actively in that discussion.

30. Unfortunately, many of the NGOs represented at the current session of the Committee had been unaware of the process, some of them having been established as recently as 1998. The existence in Bulgaria of over 200 foundations and more than 90 political parties had made the selection of those most suitable for participation in the drafting of the report a difficult task. In any event, the Government would transmit a copy of the report, as well as the Committee's comments, to all such organizations and would also publicize them through the media. Preparations were under way for the establishment of an Economic and Social Council and a National System for Trilateral Cooperation on social, economic and cultural matters. The latter would comprise representatives from all sectors of society, including NGOs, in the hope that they would contribute to the social dialogue as the most effective means of promoting economic, social and cultural rights.

31. The delegation would reply to the questions on discrimination against women and the rights of the Roma minority in its detailed information on the implementation of the various rights. In view of the reservations it continued to entertain in that regard, questions concerning the additional protocol would also be addressed later.

32. Mr. CEAUSU said that while he accepted the accuracy of the written reply to question 4 of the list of issues, to the effect that there was no intentional discrimination against the Roma and other ethnic minorities in the fields of work and education, it appeared that their exercise of those rights was curtailed by the very fact of their minority status. Further, the claim that the authorities had received no complaints of alleged discrimination with regard to payment of social benefits did not constitute proof of non-discrimination. The authorities needed to determine whether the Roma or other ethnic minorities had cause for complaint and whether, owing to their background, they might fail to receive all benefits due to them. He would be grateful if the delegation would provide figures to support the claim that the Roma were the group that received the highest social assistance benefits. Could minority groups not lose out through mere ignorance of the required procedure, illiteracy or other deficiencies?

33. While the police appeared to have cracked down on racial violence, paragraph 5 of the written reply to question 4 appeared to reject the Committee's request out of hand. To the best of his knowledge, in all democratic countries, the Ministry of the Interior and the Public Prosecutor's Office drafted the section of the report dealing with the crime rate. He wondered why no racial breakdown of acts of violence had been provided in Bulgaria's report. Parliament, as the supreme authority, could surely have commissioned the requisite figures from the Ministry of the Interior. It was not the Government, but the Bulgarian State - and all the branches of government - that was a party to the Covenant. Could the authorities be invoking the separation of powers as an excuse for shirking their responsibility to ensure the implementation of those rights? Sound statistics were required in order to ensure that the State lived up to its obligations under the Covenant and investigated acts of violence stemming from racial discrimination or prejudice.

34. Mr. SADI confessed himself confused as to the status of the Covenant, since article 5 (4) of the Constitution had not been directly tested vis-à-vis the Covenant in the courts. Had the provisions of the Covenant actually been incorporated into domestic law, or were they simply reflected therein?

35. Mr. HUNT requested a response from the delegation to his questions concerning national human rights institutions.

36. Mr. AHMED praised the frankness of the delegation's presentation of the report. Echoing Mr. Rattray's question, he said the delegation had pinpointed rampant unemployment, drug trafficking and criminality as being among the causes of Bulgaria's problems, but had failed to mention Bulgarians' disillusionment with what they viewed as an excessively rapid restructuring process. In corroboration of a recent letter in the International Herald Tribune which had made reference to elderly women scavenging for food in dustbins, he cited United Nations Development Programme (UNDP) statistics showing that 30 per cent of Bulgarian households were hard put to meet their most basic needs. How, in those circumstances, could the authorities hope to fulfil their Covenant obligations of ensuring enjoyment of economic, social and cultural rights? That raised the question of the Government's attitude to the alternatives before it: full-speed restructuring and the increased agony it entailed, or a more gradual process aimed at addressing its citizens' social needs.

37. Mrs. JIMÉNEZ BUTRAGUEÑO called for more information concerning the social security problems faced by retired persons and old-age pensioners. She would also like to learn more about the role of the new "legal defender".

38. The CHAIRPERSON requested the delegation to provide more precise oral answers so as to reduce the need for supplementary questions.

39. Mr. DRAGANOV (Bulgaria), replying to Mrs. Jiménez Butragueño's questions, said that the post of ombudsman would shortly be created, but was still under discussion in Parliament and within society as a whole. Retirees' pensions also naturally depended on the State's economic health. In response to questions from Mr. Rattry and Mr. Ahmed, he said the

authorities had no intention of slowing the restructuring process in order to cater to individual rights, which would be addressed through the reform. Many post-1989 Governments had adopted the stance of gradual reform rather than shock therapy, with disastrous results. He could, however, see light at the end of the tunnel, in 5 to 10 years' time.

40. The situation described in the letter in the International Herald Tribune was accurate. The only options open to the authorities had been democratization or a continuation of previous policies. The economic situation was also influenced by International Monetary Fund (IMF) requirements. Citizen disenchantment was a direct consequence of the high social expectations and standards of care Bulgarians had come to expect.

41. The fact that half the Bulgarian population was of retirement age placed immense pressure on the State budget. Despite the continued restructuring, the party in power had earned 45 per cent of the vote in recent local elections.

42. Mrs. SREDKOVA (Bulgaria) said the delegation would reply to questions concerning the additional protocol and other human rights organizations at the following meeting.

43. Mr. WIMER ZAMBRANO requested the delegation to expand on its repeated references to the deterioration in Bulgaria's situation occasioned by the war in neighbouring Yugoslavia.

44. Mr. DRAGANOV (Bulgaria) said that exports were vital to Bulgarian prosperity. Although the export trade to the east continued, the importing countries, themselves suffering economic problems, were spending less. Trade with Europe, which had formerly taken 60 per cent of Bulgarian exports, had been almost completely blocked, first by the sanctions imposed on Yugoslavia and secondly by disruption of communications via the Danube. The resulting upward pressure on export prices had meant that the whole of the economy suffered. Any improvement in the national income through internal consumption would demand foreign investment, which tended to be risk-averse. The specific effect of the war in Yugoslavia on the transportation sector alone might be likened to the effect that a closure of the border with the United States would have on Mexico.

45. The CHAIRPERSON said that a number of questions relating to section I - concerning the optional protocol, the applicability of the Covenant in the Bulgarian courts, the role of the ombudsman, and whether the mandate of the national human rights institutions included economic, social and cultural rights - remained unanswered. She invited the representative of Bulgaria to continue with that part of his statement relating to section II - general provisions.

46. Mr. DRAGANOV (Bulgaria) said that guaranteeing equality of economic, social and cultural rights for all its citizens was one of his Government's highest priorities. The prohibition of discrimination, which was a principle of the Constitution, was set forth explicitly in the basic legal texts in that field. As a rule, the principle was also applied in practice. Attention was drawn, in the additional material provided, to a number of special international and national programmes in that connection. The reasons for the few violations that were reported had already been explained. There had recently been further changes. The Government and NGOs had started to carry out measures that would guarantee more effectively the right to education of the different ethnic groups and social sectors of the population. A project was under way, to

keep such children, who were by law subject to compulsory education in school. The project had been implemented in schools where the children belonged to different ethnic groups and where Roma children predominated. Further projects were aimed at appointing Roma tutors in Bulgarian schools where there were significant numbers of Roma children.

47. In 1999, the National Centre on Health Services had begun research into resolving specific health problems of the different ethnic groups. The objective was to study those problems and outline the necessary steps for improvement. Progress had also been made in respect of refugees. The draft Refugee Act mentioned in paragraph 6.1 of the written replies had now been adopted by the National Assembly and had been in force since 1 August 1999. The Act laid down the procedure for granting refugee status, and provided the persons granted such status with rights that were equal in principle to those of Bulgarian citizens. A special decree on the education of refugees in Bulgarian schools was currently being finalized.

48. The problem of providing equal rights for men and women was crucial to Bulgarian society. National legislation adhered strictly to that principle. There were, however, certain gaps in that respect, such as failures to provide equal pay for equal work, the absence of protection against sexual harassment in the workplace, and so on. A number of the difficulties encountered in adhering to the principle of gender equality were noted in the report. In addition, not all women were aware of their economic, social and other rights. There was insufficient scientific research into the situation and problems of women in society, the family, the workplace and other spheres. Those issues were under discussion in Bulgaria and measures to address them were being mapped out.

49. Mr. SADI said he had been struck by the statement, in paragraph 4.1 of the Bulgarian responses to the list of issues, that Turks, and Roma especially, did not place particular emphasis on obtaining higher education, and that the lower educational level resulting from that attitude put them at an economic and social disadvantage. In addition, it was stated that the housing and living conditions of Roma tended to be below the average for the country, the reason given being that they tended to have large families. Those unfavourable living conditions, together with inadequate nutrition and hygiene, were said to be among the main causes of their relatively worse state of health. Clearly, affirmative action was required to reverse those trends, encouraging emphasis on higher education and convincing the Roma of the advantages of smaller families. There were of course limits on the Government's power to act, but it should address the reasons for the unsatisfactory condition of the Turkish and Roma population, not simply remark upon them.

50. Mr. ANTANOVICH referring to an earlier remark by Mr. Ahmed, said that the problems of the countries in transition in central and eastern Europe were due not so much to their unpopular Governments as to the fact that the old centrally-planned system of production had fallen apart long before a new system had been created. Governments could not slow down and cater more to the needs of their populations, simply because there was nothing to cater with.

51. The report acknowledged that there was a certain inequality of opportunity between men and women. Nevertheless, there was no adequate programme for solving the problem of unemployment among women and other vulnerable groups, or indeed the problem of unemployment at large. Paragraph 14.3 of the replies referred to a few initiatives for providing

employment, such as the preparation, with technical assistance from the World Bank, of methodological materials for the professional training of disadvantaged groups, and financial incentives for private employers who hired certain categories of the unemployed. What was needed was a national governmental programme of job creation, of the kind put in place elsewhere in Europe.

52. Mr. WIMER ZAMBRANO said that the sort of vicious cycle described in regard to the education of minorities in Bulgaria was common to most countries with minorities, even where ample resources existed for solving the problem. He took it that the people officially referred to as Roma were still generally known as Gypsies in everyday parlance. One of the most complex problems in education, under study in various international organizations, was that of schooling for travelling people, not in the sense of settling them but rather of providing for their educational needs as travellers. He asked whether there was any programme in Bulgaria, or if any special measures were taken, to satisfy the educational needs of school-age travellers.

53. Mr. TEXIER had a question about the condition of refugees and asylum-seekers. He understood that the Convention relating to the Status of Refugees had been incorporated in domestic legislation and that a number of decrees had been adopted on the status of refugees and the employment of foreign citizens. From material provided by the Office of the United Nations High Commissioner for Refugees (UNHCR), it appeared that there had been a large increase in the number of refugees between 1998 and 1999. The body which ruled on refugee status in Bulgaria was the Bureau of National Asylum and Refugees. However, it did not appear to possess the legal powers or the financial means to work satisfactorily. Poorly paid and too few staff meant that it took a long time to grant asylum-seekers refugee status. Paragraph 6.1 of the replies stated that, if it took more than three months to arrange refugee status, the persons involved could be issued with permits for temporary work. In practice, however, the position was very complicated and very few refugees had access to work before receiving such status.

54. Another problem of concern to UNHCR was the lengthy detention of asylum-seekers at Sofia airport. They were kept for a long time in the transit area where basic conditions for food and sanitation were lacking. He asked whether there was any plan to improve conditions or to speed access to refugee status.

55. Mr. GRISSA wondered why, after 40 years of communist rule, during which there was said to have been no discrimination in education, minority parents should be accused of not wanting education for their children. Had the communist authorities failed to change the parents' mentality and had the situation reverted to what it was before communist rule? To place the responsibility on the parents was to abandon the State's fundamental duty to protect vulnerable groups of the population and prepare them for life. The State must play a role. Was education not compulsory for all?

56. Mr. RATTRAY said that, according to the report, 57 per cent of professional and technical positions in the public sector were held by women and 61.9 per cent of the population in higher education were women. He asked whether the attitudes which had fostered that achievement were changing with the move to privatization. What was the position of women in the private sector?

57. Mr. AHMED said that, according to figures provided, 91 per cent of Roma citizens of Bulgaria were unemployed, living on the proceeds of theft, begging and prostitution. Thirty per cent of crime was attributed to the Roma, who accounted for 90 per cent of the prison population. Under communism, the Roma had been forced to settle and given jobs. By 1999, all that had changed, with welfare payments being stopped, leading to hunger strikes and waves of protest. Roma had been subjected to discrimination and violence and the police had not defended them. In 1998, the Government had announced a plan to study ways of improving their status and promoting their development. Had that project now been established and, if not, what prospect had they of receiving assistance?

58. Mr. DRAGANOV (Bulgaria) said he was glad to learn that the vicious cycle in respect of the education of minorities was not a problem in Bulgaria alone. The situation there seemed somewhat paradoxical; for education was compulsory for every child up to the age of 16, and the literacy rate was between 98 and 99 per cent, one of the highest in Europe, yet certain groups in society did not value higher education. In part, the blame for that could be attributed to the former regime, whose ideology had been based on the working class. The relative attractiveness of working-class jobs in terms of pay, as against work that required higher educational qualifications, was a lingering reflection of the Soviet era. He hoped that current conditions and attitudes would change.

59. In response to the question raised about the name given to the Roma, he confirmed that they continued to be known as Gypsies in common parlance. Around 170 Roma organizations had taken part in the programme recently established for that group. The programme was in the initial stages of its implementation. The refugees at Sofia airport constituted a major problem: the airport was in need of large-scale investment and the refugees were shortly to be moved to buildings specially constructed for them.

60. Mrs. SREDKOVA (Bulgaria) said that statistics were available on the number of women employed in regional and municipal administrations, many of whom occupied high-level positions. Most senior posts in health care and education were also occupied by women.

61. Mr. GANTCHEV (Bulgaria) said that the Director of the National Demographic and Ethnographic Council had confirmed that the Roma had participated actively in the preparation of the programme devoted to them. In response to the question raised regarding refugees, he said that Bulgaria had recently adopted a new refugee law which had been very positively assessed by UNHCR and the International Organization for Migration (IOM). Refugees had been granted the right of reunification with older members of their families and were entitled to social benefits. Their access to the labour market was limited in practice as a result of language and training considerations; they were nevertheless able to set up their own businesses. Refugee children received State support in organizing their education. A further positive step had been the signing of a cooperation agreement with IOM. Finally, a new agency for refugees had recently been established.

62. Mr. GRISSA asked from which countries the majority of refugees came.

63. Mr. ANTANOVICH said that the continuous movement of hundreds of thousands of Roma posed an economic and social problem for all central European countries. More

information would be appreciated on the issue of the status of women. Was the high drop-out rate of girls from secondary education considered to be a problem? Why was the percentage of unemployed graduates so high? Was there a national government programme designed to help women returning to work after maternity leave?

64. Mrs. JIMÉNEZ BUTRAGUEÑO requested more information on the new law on refugees. Had the new law led to improvements in their situation?

65. The CHAIRPERSON remarked that no reply had been given to Mr. Ceausu's question on social benefits for the Roma.

66. Mr. GANTCHEV (Bulgaria) said that his country was not normally perceived as having problems in relation to its treatment of the Roma population. In fact, its new programme had received a lot of positive attention. The majority of refugees came not from the former Yugoslavia, but from Afghanistan and Iraq. There were about 3,000 in total. A short summary could be provided of the new law on refugees.

67. Mr. DRAGANOV (Bulgaria), turning to section III of the list of issues, said that the right to work was one of the traditionally recognized values in the Bulgarian social and legal system. The changes made in the past few years had been determined by the radical transformation of the country's economy. That transition had given rise to the previously unknown phenomenon of unemployment. The rapid pace of change in the labour market meant that some of the information provided in the report was in need of updating. Thus, in July 1999 the employment coefficient had been 43.1 per cent, compared to 45.3 per cent in July 1998 and 43.5 per cent in September 1993. Unfortunately, young people had only limited prospects of finding jobs. The proportion of unemployed women remained high: for the first eight months of 1999, that figure had stood at 53.5 per cent, compared to 54.4 per cent in 1998. There had also been an increase in the proportion of the unemployed with no professional qualifications, and the section of the workforce with the lowest levels of education remained the most vulnerable to economic reforms. The number of unemployed persons registered for more than one year also remained high. The situation was exacerbated by the fact that the number of unemployed entitled to compensation and allowances had decreased from 35.1 per cent in 1993 to 29.2 per cent in 1999. The regional unemployment statistics were more stable, and were lowest in the capital.

68. On a more positive note, the legal basis for regulating the labour market had been improved with the adoption of the Laws on Regional Development, Cultural Development, Additional Pension Insurance, Professional Education and Training, and the amendments to the Unemployment Protection and Employment Promotion Law. It was also planned to increase the number of people entitled to unemployment benefit and to reduce social insurance contributions.

69. The implementation of new national programmes for the promotion of employment had continued. A national programme for temporary employment in socially useful activities, and a programme to provide additional vacancies and temporary employment for the unemployed in environmental and forestry enterprises had alleviated the situation of many hundreds of people in

various municipalities. Finally, in a specially designed programme, almost 2,000 former military staff had received individual or group training to ease their reintegration into the labour market. The Quick Start programme, financed by the United States State Department of Labor, also provided professional education focused on employers' needs.

70. Further employment promotion programmes had been launched. A notable example was the "start-your-own-business" programme, which aimed to assist the successful initiation of independent economic activities through involvement in suitable training courses. Regional programmes took into account structural reform, the various initiatives in the National Development Plan and the state of the local economy.

71. By contrast, no particular changes had been introduced in labour conditions, such as working hours, leave and remuneration, since the preparation of the report. However, new amendments to the Labour Code were being prepared, granting the parties to a labour agreement the freedom to determine its content and providing more efficient guarantees for the protection of all workers and officials.

72. The process of strengthening trade unions and employers' organizations had continued. The recently adopted Civil Servants Act, the Defence and Armed Forces of the Republic of Bulgaria Act and the Interior Ministry Act contained provisions on the right of participation in professional unions for the personnel concerned. Although all three categories of officials were deprived of the right to strike, other voluntary methods of settling collective labour disputes were envisaged. Serious efforts were being made to promote social dialogue, with preparations under way for the establishment of an Economic and Social Council and a National System for Trilateral Cooperation.

73. Mr. CEVILLE said that a question had been raised regarding the extent to which Bulgaria had taken into account the observations of the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations in relation to Convention No. 111: Discrimination (Employment and Occupation), 1958. In its reply the Government had indicated that there were certain groups of citizens, for example the Roma and those of Turkish origin, who had been subject to particular attention owing to the seriousness of their situation in the context of the transition to a market economy. He wished to know what that particular attention had entailed. Secondly, in 1996 a United States State Department report on discrimination against minorities in the workplace had observed that discrimination continued to be a particular problem for the Roma people in Bulgaria, and that employers justified such tactics by referring to the low level of training and education of the majority of Roma. Did that situation persist? If not, how had the problem been solved?

74. Mr. TEXIER, referring to the issue of unemployment, noted that the number of people out of work in Bulgaria continued to increase. Of particular interest were the categories of young people and the long-term unemployed. What specific measures had been taken to aid young people? Since the long-term unemployed were particularly vulnerable, an indication should be given of whether any special assistance had been offered to them.

75. The replies to the list of issues gave no clear idea of the level of the minimum wage in Bulgaria. Such a wage should enable a decent standard of living to be attained. However,

despite the fact that figures had been cited in the replies, there was no indication of individuals' purchasing power. Furthermore, it was not clear whether the increase in unemployment was the result of inflation or was caused by another specific factor.

76. As regards the right to strike, the ILO Committee on Freedom of Association had interpreted the Collective Labour Disputes Act as indicating that a majority of all workers within an enterprise or unit must take a decision to strike in order for a strike to be legal. That was clearly not in conformity with generally accepted norms. The same Act stated that health, electrical and communications workers were denied the right to strike. The situation should be clarified, given that States were usually requested to impose only minimal restrictions on the right to strike, affecting only police, army and prison personnel. In the light of the Act, it did not appear that workers were genuinely able to assert their entitlement to adequate legal, social and occupational protection.

77. Mr. CEAUSU expressed his concern at the statement in the written replies that the number of unemployed with the right to benefits had fallen from 49.7 per cent in 1991 to 23.3 per cent in 1998, and that the number of unemployed receiving "pecuniary unemployment assistance" had also fallen to 0.7 per cent. In the light of those two statements, the system of unemployment benefit should be explained in more detail. Did a mechanism of employee contributions exist? Reference had also been made in the country report to monthly social aid. To understand what that represented, it should be clearly stated how many people actually received it.

78. The whole purpose of a minimum wage was to guarantee employees a decent standard of living. Yet the extremely low minimum wage set merely encouraged employers to pay the lowest possible wages. That was the opposite of what had been originally intended, and the authorities needed to rethink the whole system in order to guarantee the fulfilment of its objectives.

79. Mr. WIMER ZAMBRANO noted that in Bulgaria trade unions were forbidden to take part in political activities and could be dissolved if they promoted political objectives. Since such objectives were pursued in all democratic countries, how was the right to strike regulated in practice? What general rules applied and which authorities took the decision to forbid strikes whose objectives were considered to be political?

The meeting rose at 1 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 16 November 1999, at 3 p.m.

Chairperson: Mrs. BONOAN-DANDAN

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CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

- Third periodic report of Bulgaria (continued)

This record is subject to correction.

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Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.99-45745 (EXT)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

- Third periodic report of Bulgaria (continued) (E/1994/104/Add.16; HRI/CORE/1/Add.81; E/C.12/A/BUL/1; E/C.12/Q/BUL/1; written replies of the Bulgarian Government (document without a symbol))

1. The Chairperson invited the members of the Bulgarian delegation to resume their places at the Committee table and to reply to the questions put at the end of the preceding meeting on articles 6, 7, 8 and 9 of the Covenant.

2. Mr. DRAGANOV (Bulgaria) said that, under article 5, paragraph 4, of the Bulgarian Constitution, international instruments which had been ratified, promulgated and published in the Official journal became an integral part of domestic law and took precedence over national legislation. Furthermore, the Bulgarian Government's written replies contained some examples of cases in which the provisions of the Covenant had been invoked before the courts while there were not many such cases, the public was becoming increasingly aware of its right to invoke the Covenant directly, particularly through the work of NGOs. Awareness raising was also taking place among members of the legal profession. A special training centre for judges had been set up in 1997.

3. Mr. RIEDEL said that he would like some details of the actual implementation of the provisions of the Covenant and asked whether persons invoking the Covenant had received judgements in their favour and whether the decisions handed down had been regarded as forming case law.

4. Mrs. JIMÉNEZ BUTRAGUEÑO welcomed the establishment of a training centre for judges and asked the delegation for more information about it.

5. Mrs. SREDKOVA (Bulgaria) said that the judgements handed down on the basis of the Covenant, the first of which dated back to 1993, had been enacted. The small number of such judgements was explainable by a lack of knowledge about international instruments, which was why a new subject entitled "International labour and social law" was now being taught at the Sofia Faculty of Law. In 1996 and 1997, a two-year post-graduate training course had been organized for the staff of the labour inspectorate. In that field, Bulgaria was also working on a draft amendment of the Labour Code based on the Covenant and to providing mechanism for settling disputes between employers and workers. The special training centre for judges had so far organized two training sessions on the protection of human rights and its two main objectives were specialized training for newly appointed judges (during their first three years in office) and the training of judges at all levels.

6. Mr. DRAGANOV (Bulgaria), referring to Mr. Riedel's question on the draft Optional Protocol, said that he had contacted his Government to obtaining its most recent thinking on Bulgaria's reservations to the draft Optional Protocol. He hoped to be able to give the Committee the results of his inquiry at the next meeting.

7. On the question of social welfare, he said that he could not give precise statistics for the number of Roma who benefitted because allowances were paid on the basis of socio-economic, not ethnic, criteria. From information collected during national censuses, the impression was that the Roma population constituted the largest group of beneficiaries of social assistance, which in full suggested that the view of the Committee on the Elimination of Racial Discrimination that the Roma faced difficulties in receiving their social assistance was incorrect. Further explanations in that connection would be found in paragraph 4.4 of the written replies. There was no question of interruption, but only delay in, the payment of local community assistance

8. As to the institutions responsible for protecting human rights, he drew attention to paragraph 4.7 of the written replies and, in particular, to the establishment of a special working group on Roma issues. As in all countries, such institutions were in need of support. Accordingly, work was being done on special training for their staff. Studies had also been carried out to determine the advisability of setting up an ombudsman type of structure in Bulgaria. Refugee status was granted by the Agency for Refugees, a body that had ministerial rank. According to the regulations in force, persons requesting asylum in Bulgaria could be detained at the airport for 24 hours before being sent to a transit centre. There were also emergency centres, where, in special cases, refugees status could be granted in 72 hours. Turning to the question of education for nomads, he said that, as far as the authorities knew, there were practically no nomads in Bulgarian territory. There was only one community of about 200 itinerant herdsmen on the Greek frontier, and the education of children of that community did not give rise to problems.

9. Mrs. SREDKOVA (Bulgaria) said that women had the same access to education as men and were well represented in the educational system at all levels, including higher education. However, they were more affected by unemployment. The National Employment Agency had not devised specific programmes for women, but they could obviously benefit from the various existing programmes for people in difficulty. For example, since 1994, the Agency had been running a literary and vocational training programme for people of mixed ethnic origin, young persons and women. Also since 1994, there had been a programme entitled "From social care to employment", which was intended for disadvantaged groups such as very low income people or single mothers and from which some 4,500 persons had benefited in 1997. A national programme had also been established to deal with youth unemployment, under which young men and women could receive vocational training or advice on choosing a career or setting up a small business.

10. The 1997 Unemployment Protection and Employment Promotion Act provided financial inducements for employers to hire the disadvantaged, in particular young people under 28, the handicapped and the long-term unemployed. So far, those measures had found jobs for 3,781 people.

11. With regard to protection for mothers, she drew attention to paragraphs 136 to 144 of the third periodic report, adding that the Labour Code contained provisions whereby an employer could provide vocational training for a woman returning from maternity leave, with a view to bringing her skills up to date and restoring her to her previous job. Parental leave could be taken by either the mother or the father - although cases where the father did so were relatively rare or even by one of the grandparents - which was the most usual case. Turning to discrimination in the workplace, she denied the allegation

that a large number of Roma were victims of dismissal. Not only the Roma, but all Bulgarians were affected by the difficult employment situation, attributable to the national restructuring process and the structural changes taking place in enterprises. The Roma were particularly exposed to the risk of dismissal not because of their ethnic origin, but simply because of their low level of skills and education.

12. Discrimination at work, on whatever grounds, was prohibited in Bulgaria. According to the Labour Inspectorate, there had been some cases of indirect discrimination, based, inter alia, on ethnic origin or sex, but employers found guilty of that type of abuse had been duly penalized by the Labour Inspectorate.

13. The right to strike was guaranteed by article 50 of the Bulgarian Constitution and was the prerogative not of trade unions, but of workers, who took their decision by simple majority. Workers and employees in certain sectors, such as health, the production, distribution and supply of electricity and the system of justice, were not entitled to go on strike. Certain articles of the Labour Code had been amended with a view to encouraging the use of means other than striking - such as direct negotiations between the parties, mediation and arbitration - to settle collective labour conflicts. The National Agency for Employment Mediation had been set up in 1998 for that purpose.

14. Only one institution was competent to decide whether a strike was political or not: the district court. According to the law, any strike was lawful unless otherwise decided by the competent court. The employer, non-striking employees and the State could dispute the lawfulness of a strike. The district court then took up the matter and was required to hand down a decision in open court within 14 days of the start of the proceedings. In practice, some strikes had been found unlawful, but many more decisions had recognized their lawfulness.

15. In reply to Mr. Wimer's question, she said that article 12 of the Bulgarian Constitution provided, inter alia, that citizens' associations, including trade unions, must not pursue political objectives or conduct any activities connected with political parties. By political activity, the legislator had meant any activity connected with organizing and conducting elections.

16. In reply to the questions of several members of the Committee about the minimum wage, she referred to paragraphs 45 et seq. of the third periodic report of Bulgaria, where the relevant mechanism was described in detail. She reminded the Committee that the minimum wage was fixed during tripartite bargaining involving representatives of the State, employers and the most representative trade unions. It was true that the minimum wage was very low in Bulgaria, but the country's economic situation made it impossible to raise it for the time being. The minimum wage was, however, two or three times higher in some economic sectors such as banking and electricity.

17. The unemployment benefit system was contributory. Any employee who had worked for 6 out of the past 15 months was entitled to a benefit equivalent to 80 per cent of the salary earned during the period of work, but not less than 90 per cent of the minimum wage. The length of entitlement varied according to length of service, from 4 months for those with less than 10 years' service to one year for those with more than 20 years' service. Three additional groups -

part time workers, people on training or rehabilitation courses and unemployed people who had been seeking work for over one year - were entitled to six months of benefit; recipients then had to wait a further year before they could claim again.

18. There were two reasons for the significant rise in the number of unemployment benefit claimants over the past few years. Firstly, until 1997, unemployed graduates of higher or secondary educational institutions had also been entitled to claim unemployment benefits, but that was no longer the case. Secondly, the number of long-term unemployed had risen, while the number of available jobs had fallen steadily.

19. Mr. GRISSA noted that the head of the Bulgarian delegation had denied the existence of any discrimination in Bulgaria, while recognizing that certain State services classified certain people according to ethnic origin. Experience had shown that, as soon as officials were permitted to classify people according to ethnic or linguistic origin, discrimination became possible. Many countries had therefore stopped drawing distinctions on the basis of race, colour, ethnic origin or religious background.

20. He also wondered how the Bulgarian authorities could state, both in their written report and in their presentation, that there was a national minimum wage if no single minimum wage existed.

21. Mr. HUNT noted that no reply had yet been received to the question whether Bulgaria genuinely had a national institution responsible for promoting and defending human rights, in the sense of a national commission set up in compliance with the "Paris Principles". Bulgaria did not yet appear to have an institution of that kind. In that case, perhaps it could envisage establishing such a structure and making it responsible for ensuring that economic, social and cultural rights were respected. In that connection, the delegation's attention should be drawn to the fact that the Office of the High Commissioner for Human Rights had a very elaborate programme precisely for the purpose of helping States wishing to create such institutions.

22. Mr. TEXIER said that, in his view, the delegation's replies to the questions about refugees were quite full, but emphasized that the Office of the United Nations High Commissioner for Refugees remained uneasy about the procedure followed by Bulgaria in that regard. Any asylum-seeker should be able to be heard by a competent service, which should consider the application on the basis of specific facts, not of prejudices about the seriousness or otherwise of the situation in the asylum-seeker's country of origin. There should be an appeals procedure for rejected applications.

23. In connection with article 8 of the Covenant concerning freedom of association, the Bulgarian delegation had recognized that articles 11 and 16 of the Law on the Settlement of Collective Labour Disputes limited the right to strike. Clearly, there remained some contradictions between those articles and their interpretation by the ILO Committee on the Application of Standards. The delegation had mentioned the Bulgarian Supreme Court's ruling that those limitations on the rights to strike were constitutional. However, Bulgaria had ratified the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87), which normally took precedence over domestic legislation.

24. He also noted that the delegation had said that certain unemployed people received unemployment benefits for six months of their first year of unemployment and then had to wait one year before they were able to draw unemployment benefits again. What happened during that year? What did they live on in the meantime? Was there really a minimum income established for those whose income was lower than the minimum set by law?

25. Mr. ANTANOVICH said that the purpose of the minimum wage was to provide the worker and his family with a decent living. That was why the minimum wage represented a important human rights instrument. If the minimum wage was too low to guarantee a decent living, it ceased to be a human rights instrument and became a simple economic indicator. The delegation had said that some private enterprises could pay up to twice the national minimum wage, but perhaps even that was not enough. Could it be said in that case that, in the present circumstances, the Bulgarian State was not in a position to guarantee a sufficient minimum wage to provide its citizens with a decent living?

26. Mr. THAPALIA said that, according to information published recently in the *International Herald Tribune*, many people aged over 30 were unemployed in Bulgaria because all job offers were directed at those aged under 30. Could people over 30 apply to a court on the grounds of violation of the right to work? Were training programmes envisaged for those over 30?

27. Ms. JIMÉNEZ BUTRAGUEÑO noted that social assistance and vocational integration programmes did not appear to be provided for elderly people in Bulgaria. What did they live on? Did they at least receive social assistance? She would also like an answer to her question about the training of judges.

28. Mr. SADI asked what percentage of the national budget was spent on social assistance and welfare benefits and whether or not that State assistance was a priority for the Bulgarian authorities.

29. Ms. SREDKOVA (Bulgaria) said that there was a national minimum wage in force throughout Bulgaria, but that the social partners in each economic sector had the option of setting a minimum wage higher than the national one.

30. Bulgaria did not yet have a national institution responsible for human rights. The Government would take due account of the Committee's recommendations in that regard.

31. Regarding the right to strike, the Bulgarian Constitutional Court had ruled that there was no contradiction between the provisions of articles 11 and 16 of the Law on the Settlement of Collective Labour disputes and those of the ILO Right to Organize and Collective Bargaining Convention, No. 98. That convention did not specify how decisions concerning the organization of a strike were to be taken. However, during the debate on the amendment of the law in question, trade unions right to propose the reduction or elimination of the restrictions on the right to strike laid down by that law for certain sectors.

32. Unemployed people who had used up their entitlement could receive assistance if they fulfilled the conditions laid down by the law on social assistance, particularly as concerned income and savings.

33. It had to be recognized that the minimum wage could not guarantee an adequate standard of living. Unfortunately, it was not possible to raise it, as that would endanger the transition towards a market economy.

34. Discrimination in hiring workers, particularly on the basis of age, occurred in isolated cases. The victims needed to be encouraged to apply to the Labour Inspectorate or the courts and reminded that those procedures were free of charge.

35. The CHAIRPERSON invited the Bulgarian delegation to refer to the implementation of articles 10, 11 and 12 of the Covenant.

36. Mr. DRAGANOV (Bulgaria) said, in population censuses, every individual was totally free to choose which category he wished to be classified in, such as "Roma" or "of Bulgarian origin".

37. The right to social insurance and welfare was guaranteed by article 51 of the Constitution. The social insurance system had been in the process of being overhauled for several years in order, inter alia, to extend protection. A new national health insurance system was being implemented gradually. The new institutions had tripartite management. Various laws had been passed on social insurance, health insurance, unemployment protection and safety at work and a code on compulsory social insurance had been approved on first reading in the National Assembly.

38. Concerning the protection of children, mothers and the family, the National Assembly had adopted a draft act on the protection of children on first reading and a new draft of the Family Code was being drawn up.

39. The right to an adequate standard of living was currently the most difficult requirement to implement because of the country's economic difficulties. The right to health insurance and medical care was guaranteed by article 52 of the Constitution. Free public health services were gradually being replaced by a new system of contributory health insurance, which was expected to be fully operational by the end of 2001. The problems encountered in implementing the new system were described in detail in the report and the written replies.

40. Important events which had occurred since the written replies had been submitted included the adoption of the law on combatting drug abuse and the law on medical institutions, the finalization of the work plan for the prevention of HIV and AIDS and the implementation of the first stage of the joint Ministry of Health/UNDP programme on HIV and AIDS.

41. Mr. HUNT said that he would like details of legislative and other measures taken by the Government to prevent and combat violence against women.

42. Mr. ANTANOVICH noted from the written replies (para. 26.3(a)(ii)) that the maximum stay in an orphanage was six months. He asked what happened to children after that period.

43. He also requested details of study grants provided by the State to children from disadvantaged backgrounds and of the protection and assistance

which should, under article 10 of the Covenant, be accorded to the family, and particularly to families with handicapped or chronically ill children.

44. Mr. SADI asked whether the standard of living of the general public and the level of protection of the family, mothers and children in particular had risen since Bulgaria had begun moving towards a market economy.

45. Mr. TEXIER said that he believed that an employer in Bulgaria could dismiss a pregnant woman by obtaining the authorization of the Labour Inspectorate. In his opinion, there should be no exceptions to the prohibition on dismissing pregnant women.

46. Concerning the right to an adequate standard of living, it would be interesting to know whether the impoverishment of the Bulgarian people, which was, as the table on page 49 of the report showed, a matter of great concern, was still continuing and to what extent privatization was responsible for that development.

47. In that connection, it was stated in paragraph 216 of the report that the system of housing distribution was being replaced by a market-based system. What measures was the Government planning to take to ensure that the most vulnerable sectors of the population still had access to housing? He would like to know how the Government intended to reconcile privatization, on the one hand, with the right to housing and adequate food, on the other.

48. Mr. GRISSA asked whether Bulgaria, like most countries in transition, had street children, and if so, what measures were being taken to deal with the problem.

49. Paragraph 151 of the report stated that, since child labour was prohibited in Bulgaria, the question did not need any consideration and paragraph 152 stated that the number of children employed within their families, households, farms or stores owned by their parents could not be assessed. It would thus be useful to have details of child labour. It was well known that, when the economic situation deteriorated, parents sometimes put their children to work as a means of boosting the family's income.

50. Mr. RATTRAY asked what specific measures were being taken by the government to comply with its obligations under the Covenant, particularly with regard to the right to housing and adequate food. In that connection, it was worrying to read in the report that State assistance to construction was now simply symbolic (para. 216) and that the State subsidy for housing had all but disappeared (para. 223).

51. Mr. RIEDEL asked what specific measures were being taken to ensure that the right to housing, adequate food and health could be exercised. In that connection, the Bulgarian Government had admitted with commendable frankness in paragraph 36.1 of its written replies that medical care was becoming more and more inaccessible for the most vulnerable groups, meaning the disabled, the retired, the unemployed and people on low incomes. The Government also admitted in paragraph 233 of the report that the physical and mental health of the Bulgarian people showed a number of unfavourable tendencies (a rise in the death rate and infant mortality rate and lower life expectancy). Under article 12 of

the Covenant, States parties recognized every person's right to the enjoyment of the highest attainable standard of physical and mental health.

52. Moreover, the alternative report by the Bulgarian Gender Research Foundation stated that implementation of the health insurance system and the restructuring and privatization of medical institutions had been postponed to July 2000 and that, in the meantime, health services would continue to deteriorate and the shortage of medicines and medical equipment would become worse.

53. It would be interesting to know how the Government proposed to remedy overcrowding and the lack of resources and staff in psychiatric institutions.

54. Mr. CEASU said that he would like to quote some figures which deserved consideration. According to the information provided in the written replies, the proportion of households with an income below the minimum subsistence level had reached 54 per cent and the percentage with an income below the social minimum had risen 41 per cent in 1990 to 73 per cent in 1996. The ratio of the income of the richest 20 per cent to that of the poorest 20 per cent had been 3.5 in the period 1980-1992 and 5.8 in 1996. That meant that the majority of the population was getting poorer while a small group was enjoying a considerable rise in income. It would be interesting to try to find a coherent explanation for that phenomenon, which was common in the countries in transition, and to know also whether there was a fair mechanism for negotiating and fixing the minimum wage.

55. In its written reply to question 27 of the list of issues, the Bulgarian Government limited itself to stating that the draft acts concerning protection of the rights of the child had not yet been adopted by the National Assembly. Was that because of the National Assembly had not yet begun consideration of the draft acts, because the Government had withdrawn the drafts or because they had been rejected. Also, Bulgaria was introducing a new health insurance system which would enter into force on 1 January 2000. Retired people's medical expenses would be paid by the State, but what would be the position of students? Would they be given free health insurance or would there be a special system for them?

56. Several paragraphs of the report were devoted to programmes in the field of health and nutrition, but most of those programmes were aimed only at professionals, such as doctors or nurses. Were there any health education programmes for the general public?

57. On the subject of housing, he found it difficult to understand the tables given in the written replies to question 33 of the list of issues. In particular, he would like to know what was meant by the expression "housing units put into use" and would welcome clarification of the figures provided.

58. Ms. JIMÉNEZ BUTRAGUEÑO noted with concern that older workers suffered more from unemployment and asked whether they were not the victims of age-related discrimination, for example, in cases where enterprises preferred to recruit young people because they were cheaper. She had also understood that the Bulgarian Government intended to raise the age of retirement, which would make the situation of older workers worse still. Paragraph 20.1 of the written replies mentioned a pre-retirement unemployment social pension: what was its

value in absolute terms and as a proportion of the minimum wage and what was the age of eligibility?

59. The reply to question 28 of the list of issues on the scale of the phenomenon of violence against women and the methods used to combat it was not very detailed. It would be interesting to have more information, both on the scale of the phenomenon and on the measures taken.

60. Mr. AHMED said that it was important to consider carefully the effects of economic policy on the exercise of economic, social and cultural rights. In that connection, he cited information from different sources. According to the UNDP Human Development report 1997, large sections of the Bulgarian population were living below the poverty line, however the latter was defined. The 1998 annual report of the Committee on the Elimination of discrimination against Women stated that the Committee was particularly struck by the huge proportion of people living below the poverty line in Bulgaria (some 80 per cent, according to the delegation). Another source (Eastern Europe, 1996) said that more than one-third of households had been suffering from malnutrition in 1995, even though they spent 70 per cent of their income on food.

61. Concerning the right to housing, the UNDP Human Development report 1997 stated that, in 1992, almost half of the population of Bulgaria was living in poor housing conditions. Regarding health, one non-governmental organization's report said that Sofia's largest maternity hospital was suffering serious staff and medicine shortages. Under the old system, medical care, including maternity care, had been free; now women had to pay a considerable sum, in relation to the average salary, for maternity care. To receive good care, it was necessary to bribe doctors. Whereas, in the past, women had received their pay in full for two years after giving birth, they now received it for only five months. A female doctor in the association of University Women said that the situation of single mothers was worse still and that one-third of children were born outside wedlock. All physical and mental health services had deteriorated and a large number of hospitals and medical centres had been forced to close or cut capacity.

62. In such circumstances, the basic question was whether the Bulgarian Government could find a middle course, a balance, between pursuing economic reform, on the one hand, and respecting economic, social and cultural rights, on the other. He would be grateful if the Bulgarian delegation would pass on his concerns to its Government, for it was essential that the latter should consider the consequences of restructuring on human rights.

63. Mr. WIMER said that he would like more detail about the housing situation in Bulgaria. In particular, he would like to know what directions Government policy was taking in response to the new economic situation, with particular regard to the fact that the preceding political system had carried out a social housing policy.

64. Mr. DRAGANOV (Bulgaria) said that his delegation would reply in detail at the next meeting to all of the questions asked and that the secretariat would be provided with a document on the integration programmes for Roma carried out in Bulgaria. Noting that most of the questions asked were of a social, political and even philosophical nature, he emphasized that ensuring economic, social and cultural rights was expensive and was inevitably subject to budgetary

constraints. However, the Bulgarian Government, or rather the State or the country as a whole, for not everything was the responsibility of the Government, was committed to reconciling reforms with rights. In the health sphere, the transition from centralized State system to private insurance could not happen overnight and was an expensive process. Assistance from the international financial institutions would be welcome. Health care would remain free until the private insurance system had entered into force. The quality of care was not always what it should be, but the authorities were attempting to improve the situation by means of programmes, with assistance from charitable associations, non-governmental organizations and international financial institutions. The housing situation was changing as well and it was interesting to note that the number of homeowners in Bulgaria was relatively high.

65. Ms. SREDKOVA (Bulgaria) said that she took issue with some of the information cited by members of the Committee on the basis of non-governmental organization reports. She was not familiar with the "alternative" report mentioned by Mr. Riedel and others, and had no idea on what basis it had been drawn up or what it contained. She could certainly study it before the next meeting, but was not sure that that was the correct way in which to proceed. whatever the case, she strongly refuted the claim that mothers had formerly been paid in full for two years after giving birth, whereas now they were paid only for five months. Bulgarian women had never been paid in full for two years after giving birth, and neither indeed had women in other European countries. Under the Bulgarian Labour Code, the total length of maternity leave granted to women depended on how many children they had already: they received 120 days for the first child and 150 for the second. Pre-natal leave represented 45 of the total 120 days. Women could extend their maternity leave by taking child-rearing leave until the child was two years old; during that time, they were entitled to a social security benefit equal in value to the minimum wage. Hence, the situation of women had clearly not become worse in terms of maternity and child-rearing allowances. Moreover, while, until 1992, only working women had been entitled to the maternity allowance, from that year onwards, women with a different status, such as the self-employed, had also been able to claim it.

66. Mr. RIEDEL said he had thought that the Bulgarian delegation was familiar with the alternative report produced by the non-governmental organization and, since that was not the case, he did not expect the Bulgarian delegation to give detailed replies to all of the points raised. However, such reports were useful because of the information they provided. The Committee referred to them not in order to accuse the country's authorities, but in order to give constructive fodder to the dialogue with the delegations.

The meeting rose at 5.55 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE 32nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 November 1999, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

later: Mr. AHMED
(Vice-Chairperson)

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Third periodic Report of Bulgaria (continued)

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GE.99-45764 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Bulgaria (HRI/CORE/1/Add.81; E/1994/104/Add.16; E/C.12/Q/BUL/1; written replies to the list of issues and additional statistics prepared by the Government of Bulgaria (documents without a reference number)) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Bulgaria resumed their places at the Committee table.

2. Mr. DRAGANOV (Bulgaria) said the delegation had organized its replies to Committee members unanswered questions into four basic groups: social security, protection of the child and family, living standards, and health care. If measured in absolute terms, the figures for social spending would be less than impressive. However, there had been a gradual increase in the proportion of the budget allocated to education, health care and social assistance between 1995 and 1999. Although the 2000 budget was still before Parliament, he did not envisage any significant departure from that trend.

3. The Refugee Act was a relatively new piece of legislation, an English synopsis of which Committee members had before them. While the Government was generally receptive to the idea of an optional protocol to the Covenant, its final position, which had been delayed by the necessary process of discussion in the various ministries and institutions, would be presented in Bulgaria's fourth periodic report.

4. Mrs. SREDKOVA (Bulgaria), replying to questions from Mrs. Jiménez Butragueño and Mr. Texier, referred members to Tables 7a and 7c of the additional statistics for information concerning unemployed persons over 40 and the long-term unemployed. While there were no specific age-related programmes, she cited a number of recent special employment schemes for certain categories of adults, mentioned in paragraph 14 (1) of the written replies.

5. While unemployment benefits were inadequate for ensuring an acceptable standard of living, they were dependent on the resources of the Training and Unemployment Fund. The conditions governing early retirement were set forth in article 45 (a) of the Pensions Law. They included structural changes to a business; a 3-month interval between the last unemployment benefit payment and receipt of a pension; and payment totalling no more than half the minimum wage in force during the preceding 12 months.

6. She understood Mrs. Jiménez Butragueño's concern at the raising of the retirement age at a time when the country's unemployment situation was so dire. A draft bill on compulsory retirement was currently before Parliament in connection with the planned reform of the social security system. A higher retirement age was one of the requirements imposed on Bulgaria by the World Bank, and a condition for the country's accession to the European Union, whose

revised Social Charter it had already signed. The retirement age - generally 60 for women and 65 for men - was one of the highest in Europe, although there were special categories of the population who could retire at 45 and 55 respectively.

7. National Statistical Institute data for 1998 showed that the low ratio of people of working age to the general population placed severe strains on pension funds. Since, as the tables revealed, the real value of pensions and other social benefits was abysmally low, older people were induced to extend their working lives in order to maintain their standard of living. The same statistics showed that over half of retirees continued to work, earning a salary and drawing a pension simultaneously, a state of affairs that was grossly unfair to the young unemployed. The consequent decision to raise the retirement age had been taken in consultation with all the social partners, and the measure would be phased in gradually between 1 January 2000 and 31 December 2008.

8. Ms. DIONEVA (Bulgaria), responding to a question from Mr. Antanovich, said the fact that compulsory education ended at 16 in Bulgaria did not preclude orphans from attending high school up to the age of 18. They received financial assistance for that purpose and were given priority for boarding places and for recruitment by various businesses. The latter, under article 58 of the Unemployment Protection and Employment Promotion Law, received financial incentives - calculated on the basis of the minimum wage and training expenses - to employ orphans, the disabled and other disadvantaged groups for 10 years, a period deemed adequate for their integration into society.

9. Attendance at high school was regulated by the Education Act, while university education was governed by a separate legal provision. State grants were available, and disadvantaged students could apply for income support. The social benefits received by orphans were generally higher than those received by other disadvantaged groups: the conditions were set out in articles 8, 9 and 10 of the Rules and Regulations for the implementation of the Social Assistance Act. They were calculated on the basis of the varying fundamental needs of the various population groups, and the basic minimum income was multiplied by a differentiated income coefficient of 1 for the general population, 1.2 for orphans and single mothers, and 1.5 for the disabled.

10. In reply to Mr. Grissa's question, she said that street children were a recent phenomenon in her country, the emergence of which had been masked under the previous centralized system. The legislation on the problem was less than rigorous. What was important was the measures the authorities were taking to combat it. Questions had been put to Bulgaria in that regard in connection with its application for accession to the European Union, and a national inter-ministerial commission on street children had been set up to address them. No reliable statistics were available, given the evolving nature of the phenomenon. However, the procedure involved temporary shelters, where the children received psychological care and were interviewed to determine why they were on the streets. Depending on the outcome, they were either returned to their families or placed in permanent shelters or special hostels.

11. Child labour was illegal and the Labour Inspectorate was authorized to prosecute businesses and families that violated the child labour laws. Four separate drafts of a law on the

rights of the child, prepared in the main by women's lobbies, had been circulated before the necessary common ground had been found and Parliament had passed the law, which contained a special provision on street children.

12. Mrs. SREDKOVA (Bulgaria), responding to questions from Mr. Hunt and Mrs. Jiménez Butragueño, said that domestic violence against women was another fairly recent phenomenon and efforts were being made to find the best means of combating it. While legislative measures and sanctions were important, they did not suffice. The authorities set greater store by educating society as a whole through the media and awareness-raising activities on the part of women's and mothers' associations. A special hotline had been available to female victims of domestic violence since 1998. Paragraph 28 (2) (a) of the written replies set forth the legislative measures in force for protecting women, while paragraph 7 (1) provided examples of the corpus delicti specific to women.

13. To Mr. Texier's question concerning the dismissal of pregnant women, she replied that article 343 of the Labour Code - which also established protection for specific categories of employees, such as trade union officials - provided that employers could not dismiss pregnant women, women with children under three years of age, or those married to men performing compulsory military service. The prohibition was relative rather than absolute, since an employee could be dismissed on the authority of the Labour Inspectorate - a state of affairs that was negative if viewed from the pregnant woman's perspective but positive if considered in the general context of freedom of entrepreneurship provided for by the Constitution. In any event, an employer's freedom to dismiss was subject to explicit conditions. An employer with more than 10 staff could be obliged to dismiss one and hire a less efficient disadvantaged person. There was an ongoing debate to determine whether that clause of the Labour Code should be retained, abolished or expanded, in the interest of employer-employee equality in labour relations.

14. Mr. DRAGANOV (Bulgaria) said that a number of questions of a general nature had been asked regarding the right to an adequate standard of living: whether there was a growing trend of impoverishment, whether the situation of disadvantaged groups had improved, why the population was getting poorer and whether the system for determining the minimum wage was fair. Those were all issues subject to daily debate in Bulgarian society. The machinery for determining the minimum wage had already been described. As to the other questions, it had unfortunately to be admitted that the trend was undoubtedly towards greater poverty and that the situation of disadvantaged groups had not improved.

15. The question why the population was poorer could be debated at length. The fact of the matter was that Bulgaria had contracted massive loans, that the sums borrowed had not been spent wisely, and that the country must now pay. It was in that light that the definition of an adequate living standard needed to be viewed. In terms of a national economy, 10 or 20 years was not a very long time. At the start of the transition to a market economy in 1989, the country had already owed some US$ 11 billion in foreign debt. An "alternative" report prepared by Bulgarian non-governmental organizations (NGOs), to which, regrettably, his delegation's attention had been drawn only in the course of the current meeting, revealed that the current demographic ratio in Bulgaria was four dependants to one worker and that the cost of servicing the country's foreign debt was between US$ 500 million and US$ 1 billion a year.

16. Mr. GANTCHEV (Bulgaria), responding to the questions raised in connection with the right to food, said that the National Institute of Nutrition had found that Bulgarians suffered not from malnutrition but rather from irrational nutritional habits. Practical measures for improvement in that regard included a programme developed by the Ministry of Health to apply principles of rational nutrition throughout the country, especially in public catering establishments, and to educate the population of the municipalities in a healthy lifestyle. A health promotion programme related to the introduction of the health insurance system was to start on 1 January 2000 with a view to raising awareness of the importance of proper diet to health. Food quality was permanently monitored by the National Institute of Nutrition, working in close cooperation with the Consumer Protection Commission, according to nine specific criteria. In future, as a means of heightening public awareness, the ingredients of all packaged foods must be visibly displayed on the package in Bulgaria. The National Institute of Hygiene and Epidemiology also played a part in quality control. In addition there were a number of programmes for special groups, such as persons suffering from diabetes, and special shops where the food they needed could be obtained.

17. In regard to the right to housing, he noted that, according to the figures in paragraph 188 of in the report, out of some 8.4 million Bulgarians, 7.7 million lived in their own houses or apartments. That had been in 1994. The statistics for the last five years, given in Tables 10a and 10b of the additional statistics, showed a definite decline in new construction. One explanation of the decline was that demand, which was related to purchasing power, had also dropped. Current economic conditions had thus resulted in a general decline in quality as opportunities to buy new housing diminished.

18. As to the situation of homeless people in Bulgaria, there were for the moment only isolated cases. The assistance afforded depended on the category of person involved. Children, for example, were directed to temporary shelters and other institutions. As far as State reaction to homelessness was concerned, the major responsibility in terms of housing fell on the municipalities, which were in some cases able to provide housing for persons in need. Only the rich municipalities, however, were in a position to buy apartments for use by vulnerable groups. They still had the power to do so, however, and the criteria on which such action could be taken were specified in various pieces of legislation governing social assistance, municipal property and compensation of persons with long-term savings destined for housing. The latter system had existed under the old regime and there were currently a number of persons in that situation. The municipalities would need to bear in mind the priority that should be accorded to them in allocating any municipal housing. To sum up, there was not currently a serious shortfall, but the housing available was likely to remain of low quality during the period of transition.

19. Mrs. SREDKOVA (Bulgaria) said that there was currently a twin-track system of health care in Bulgaria. The implementation of a new national health insurance system had started on 1 July 1999, when payment of insurance contributions to the National Health Insurance Fund had begun. Until the new system came into effect on 1 January 2000, the old system of public health care would continue. As to what kind of health-care measures were currently being implemented and what possibilities were open to the public in the interim, citizens were entitled to a free choice of and treatment by medical doctors and a dentist working in their respective primary health-care units, as well as the specialist services of an otolaryngologist and an ophthalmologist.

Those medical services and emergency services were currently free but would, after the introduction of the new system, be paid for out of the National Health Insurance Fund. In all other cases, the services would be paid for in accordance with the conditions and regulations laid down by the Ministry of Health. The public health-care system also included State sanitary control, health care for pregnant women, mothers and children, sanatorium treatment, medical controls on physical fitness activities, sports and tourism and campaigns against drug addiction, alcoholism and smoking.

20. As to the question whether there was sufficient provision for health care, in terms of human resources and hospital beds, provision was ample. The ratio of doctors and dentists to the population was higher than the average for the European Union. The picture was different in regard to financial resources. Not enough money was available in the State and municipal budgets to provide adequate care. The introduction of the new health insurance system had been delayed because the Fund's resources were not yet sufficient. The 6 per cent of income that people were required to pay had not proved adequate and the State was not in a position to subsidize the system any further. The period between 1 July and the end of 1999 had not, however, been wasted. The structure of the National Fund and the regional health insurance funds had been established and a start had been made on educating health-care providers and managers in the new system. Another important development had been the organization of education in promoting healthy lifestyles.

21. To the question whether the State would pay for medical care for students and retirees after the introduction of the insurance system, she said that in future, the State would pay only for emergency health care, psychological care and blood transfusions. Health insurance contributions would be obligatory for all citizens of Bulgaria, resident foreigners and refugees. The State would pay, however, for retired persons, students, the unemployed and certain socially disadvantaged persons. The contributions of persons living in establishments for disadvantaged persons would be paid by the State.

22. In response to the question about doctors' low pay, she said that other professionals, such as teachers, were also paid very little. One of the aims of the new health insurance system was to improve the situation of health-care providers. Discussions were currently under way on doctors' pay and the costs of medicaments. Representatives of the doctors, dentists and other providers would be engaging in salary negotiations with the Fund.

23. The special health establishments that existed for disadvantaged groups would be retained but would need to be improved. Under the current system, medicaments were provided free of charge to all children up to the age of three as well as to persons suffering from certain chronic illnesses. For elderly persons in particular, that assistance was very valuable. To the question about primary care, she said that primary health-care services were provided by clinics and polyclinics and, in the towns, by various hospitals. In the villages, these services were provided by health-care centres. Every person had access to a district doctor in his or her place of residence. There were also district gynaecologists, obstetricians, paediatricians and dentists. Dental services were provided at national and regional levels. Much dental care was now dispensed privately. Specialist outpatient services were commonly provided at polyclinics and hospitals, following referral by a district doctor. After the introduction of the new system, all

hospitals and polyclinics would be organized as commercial enterprises. Public health establishments would continue to provide emergency and psychological care and blood transfusions.

24. As far as the mental health of the nation was concerned, the statistics showed that mental disorders were on the increase in Bulgaria as in other eastern European countries in transition. Psychiatric patients were entitled to all the services provided to other patients and all the necessary drugs for those registered as in need of psychiatric care would be supplied free of charge. Even after the introduction of the new system, the State would retain responsibility for the mentally ill and all existing establishments for the mentally disabled would remain public, although private care would be allowed.

25. Mrs. JIMÉNEZ BUTRAGUEÑO asked whether the new Family Code would help to strengthen the family.

26. Mr. SADI said he understood that there had been a rapid rise in cardiovascular disease and cancer in Bulgaria, both of which were a reflection of poor general health conditions. He also wished to know whether the phenomenon of organized crime, which had arisen in many other countries in transition, had affected Bulgaria.

27. Mr. KOUZNETSOV said he had understood from the Bulgarian delegation that the State budget for the year 2000 had already been adopted. If that was the case, he would like a general picture of the budget in the social field. Was there any trend towards an increase in allocations and had funding been earmarked for social programmes? Could the Committee be sure that the budget would be fully implemented? The degree of implementation often varied and deadlines were not met. He would welcome a very specific answer.

28. Mr. RIEDEL suggested that in its fourth periodic report Bulgaria should consider some of the issues of concern that had been raised, such as social assistance, homelessness, disadvantaged people and primary health care. The country should aim to set itself benchmarks, against which it could measure what had actually been achieved, and which could serve as a basis for the Committee's discussion. It was pleasing to note that government control would be retained over essential mental health services alongside those which were to be privatized.

29. Mr. HUNT said that in its negotiations with international financial institutions Bulgaria should raise the issue of its binding international legal obligations under the Covenant. The fact that all financial arrangements must respect those obligations should be emphasized. The Covenant should not be seen as imposing onerous legal burdens, but rather as a means of assisting States parties in their negotiations with powerful non-State actors.

30. The CHAIRPERSON, endorsing Mr. Hunt's words, said that the Covenant was a very important instrument for the fulfilment of a State's obligations but also a means of affording protection and assistance to that State. It appeared that international financial institutions were not as yet accountable to human rights treaty bodies.

31. Mr WIMER ZAMBRANO said that the details provided regarding the Government's employment policy for elderly people were not sufficiently clear. What was government policy in that regard and what were the personal opinions of the delegation?

32. Mr. AHMED, endorsing Mr. Hunt's remarks, said that in that connection it was interesting to recall resolution 1998/12 adopted by the Sub-Commission on the Promotion and Protection of Human Rights in August 1998, in which the Sub-Commission urged United Nations agencies, including the International Monetary Fund (IMF) and the World Bank, to at all times be conscious of and respect the human rights obligations of the countries with which they worked. In the same resolution, the Sub-Commission asked the Committee to include consideration of the human rights impacts of international and regional trade, investment and financial measures in their State reporting procedures.

33. Mrs. SREDKOVA (Bulgaria), responding to the questions raised, said that families had been both weakened and strengthened during the current transition period. They had been weakened from a financial point of view but strengthened in terms of solidarity in the face of difficult circumstances. In that connection, the new family law introduced the concept of a marriage contract regulating financial relations between future spouses. A draft law on material support for families was also being discussed to supplement the current Social Assistance Act, the Special Act on Children's Allowances, and the Act on Birth Promotion. Parents were also eligible for monthly allowances providing them with assistance in extreme situations.

34. It had to be said that no special measures had been taken with regard to the employment of elderly people. It was the personal opinion of the delegation that the measures existing to assist adults in that sphere were insufficient. In fact, on account of their numbers, parents and grandparents currently constituted the most vulnerable group in society. Given that they had worked so hard to establish the current infrastructure and that their living conditions were inadequate, a great debt was owed to them.

35. Mr. GANTCHEV (Bulgaria) explained that the fight against corruption was one of the Government's highest priorities. On coming to power it had immediately adopted a strategy to combat organized crime. The implementation of the related programme was monitored every six months. The anti-corruption programme was also an important political consideration in the opening of accession negotiations with the European Union. That programme was central to guaranteeing basic rights and freedoms for all citizens.

36. Mr. DRAGANOV (Bulgaria), responding to the question raised by Mr. Kouznetsov, said that the budget for the year 2000 would most probably be adopted before the end of November. The expenditure devoted to education, health and social assistance would certainly not be reduced. As had been the case in the past two years, the budget would be fully implemented and no problems were anticipated. The strict financial discipline imposed by international creditors had to be respected. However, constant reference was made in negotiations to Bulgaria's obligations under the international instruments to which it was a party.

37. Mrs. JIMÉNEZ BUTRAGUEÑO stressed the need for the anti-corruption measures taken by the Bulgarian Government to be reflected in the Committee's concluding observations.

38. Mr. DRAGANOV (Bulgaria) said that a thirst for knowledge was a traditional attribute of the Bulgarian people. Article 53 of the Bulgarian Constitution proclaimed the right to education as a basic right for all citizens. Outlining statistics relating to the numbers who had completed the different levels of education in 1998, he said that the total number of people involved in the various levels was 1,389,513, most of whom were in general education and the remainder in special and technical institutions. While the percentage of females in the various levels of education increased with age, the total number of schools in rural areas showed a steady decrease. Likewise, the number of schools for physically disabled, mentally retarded and socially unstable children had also decreased from 270 in 1997-1998 to 240 in 1998-1999.

39. The number of students involved in higher education had risen slightly, despite the introduction, through the Higher Education Act, of compulsory annual tuition fees for all students at public higher education institutions. The Government hoped that would not represent a serious impediment to equal access by young people to such education. A very important element in the development of the educational system over the past year had been the adoption in 1999 of the Law on Professional Training and Professional Education. That Law provided a new basis for the system of professional orientation, vocational training and education of both children and adults.

40. Finally, the right to exercise national and universal cultural values and the freedom of artistic, scientific and technical creation set forth in article 54 of the Constitution were regulated and guaranteed by current legislation. Interest in, knowledge, preservation and development of the rich cultural heritage were traditional values of Bulgarian citizens. Notwithstanding the overall deterioration in the economic situation and the financial restrictions imposed, the Government, together with cultural and scientific organizations, was making efforts to cater for those interests. Mention should also be made of the recent project entitled "Increasing citizens' participation in the development of community cultural centres", which offered possibilities for more active participation in cultural life, the development of national culture and access to common cultural values.

41. Mr. CEVILLE, referring to the subject of access to higher education, said that according to a United Nations Educational, Scientific and Cultural Organization (UNESCO) report the tuition fees for higher education in Bulgaria were fairly high, representing 43 per cent of the average annual wage in 1994. There appeared to be a contradiction between the principle of accessibility of higher education and the introduction of tuition fees. What action had been taken to reaffirm the basic principles of physical, economic and non-discriminatory access? He would also welcome information on the possibility of access to higher education for minority groups, in particular the Roma and Turkish minorities.

42. Mr. GRISSA confessed to confusion regarding the relationship between the statistics provided in the report and those submitted during the current session. It appeared that only 8 per cent of pupils entering primary education successfully completed their studies. What was the exact relationship between the different statistical tables? What was the reason for the low number of pupils studying at the different levels cited in the tables most recently submitted? Was the increase in the number of private schools the result of a decline in the quality of education provided in State schools?

43. Mr. Ahmed, Vice-Chairperson, took the Chair.

44. Mr. ANTANOVICH said that, in the context of the United Nations Decade for Human Rights Education adopted by the General Assembly in 1994, the Committee had requested information on that matter. Bulgaria had stated that human rights teaching had expanded in universities and among public officials. Was that also the case for the armed forces and the police? Was a distinction drawn between officers and ordinary soldiers in such training?

45. In addition, information should be provided as to whether any specific national institutions existed for the preservation of minority cultures. In that regard, he noted that in 1997 the President of Bulgaria had stated that there was no Macedonian minority in the country.

46. Mr. CEAUSU said it was clear from the third periodic report that, in comparison to the wages paid to other public servants, the remuneration offered to teachers was continually decreasing. In 1994, teachers had ranked fourteenth in a list of 16 government-registered sectors. The more recent information provided indicated that the disparity had grown still wider. Had that fact given the authorities cause for concern? It should be ascertained whether there were any budgetary possibilities for increasing teachers' wages, given that the salaries of other State enterprise workers in the gas, electricity and commercial sectors had risen sharply. Those planning the budget should be acutely aware that the future of the nation depended on the level of education of those currently studying in schools.

47. Although the report furnished ample information on the Bulgarian education system as a whole, there was no mention of teaching in the mother tongues of national minorities such as the Turks and Roma. Were there any government programmes to promote such teaching at primary and higher levels? What opportunities were there for the national minorities to develop and enjoy a cultural life through their own mother tongue, in compliance with articles 13 and 15 of the Covenant and article 54 (1) of the Bulgarian Constitution?

48. Mr. THAPALIA, referring to statistics provided by the Bulgarian delegation and information from the Committee on the Rights of the Child and its NGO sources, expressed concern at the recent considerable increase in the drop-out rates of pupils at primary and secondary levels in Bulgaria, which could hardly be explained solely by the declining birth rate over the last decade. What were the causes and what would be the consequences of the increase? What was the basic salary for teachers and was there a significant difference between the salaries paid in private and State-run institutions?

49. Since 1999 was the International Year of Older Persons, was the Bulgarian Government taking any steps to improve the situation of its elderly population or to take advantage of the knowledge, culture and spiritual values such persons could transmit to other Bulgarians? Lastly, did the Government envisage any human rights education for older judges appointed prior to 1989?

50. Mr. RATTRAY said that while Bulgaria was justifiably proud of its high literacy rate and educational standards, there was undeniably a decline in the number of pupils attending schools, particularly at secondary level. He wondered whether that was perhaps a reaction to the absence of employment opportunities, to the type of employment opportunities available, or to the

imposition of fees. What steps was the Bulgarian Government taking to ensure the full realization of the right to education and the development of the human personality in accordance with article 13 of the Covenant?

51. Mr. DRAGANOV (Bulgaria) said that the main reason for the decline in the number of pupils attending schools was undoubtedly the dramatic fall in the birth rate. On account of the current economic difficulties, fewer Bulgarian families were having any children at all. Those that did choose to have children had only one child and a family with two children was now considered a large family. Naturally one of the consequences of fewer children in the education system was a fall in demand for teachers. Bulgarian teachers earned a pittance and were thus attracted to the private system, which might offer better pay conditions. Of course, private schools were a recent initiative, and as they often proved to be commercially unviable, offered little in the way of job security. Every effort was made by the Government to maintain high standards in State-run schools.

52. There could be no doubt that the process of democratization had had an overwhelmingly positive impact on the development and enjoyment of the cultural life of national minorities. All the different ethnic groups in Bulgaria were now allowed to exercise their cultural rights, something which had not been possible before 1989. In that respect, the Bulgarian Government was setting a good example for other countries in the Balkan region, further evidenced by its signature of the Council of Europe's framework Convention for the protection of national minorities.

53. Mrs. SREDKOVA (Bulgaria) said that, regrettably, she would be unable to answer all the questions on education and cultural rights in the short time available. In response to Mr. Ceausu's question, she said that information on the teaching of minority languages in Bulgarian schools had been provided in paragraph 301 of the report (E/1994/104/Add.16), but that it reflected the situation as at 1995. Since then, the programme referred to in that paragraph had been implemented. The main minority languages taught were Turkish and Hebrew. There was a large Jewish community in Bulgaria, even larger than the Roma one. Teaching in the Roma mother tongue was slightly more problematic owing to the specific characteristics of that language. A number of programmes had been introduced by the Ministry of Science and Education to combat the drop-out problem; programmes targeted at national minorities included the "Education of Roma in Central and Eastern Europe" programme.

54. She rejected the assertion that the introduction of fees would restrict access to higher education. Education was one of the most important values in Bulgarian society, as was borne out by statistics showing the very high percentage of the population in higher education. The fees varied according to the faculty chosen, but did not represent 43 per cent of the average minimum wage. Certainly some Bulgarians would look back on the good old days when education was generally free, but there was no alternative - the current economic climate necessitated the imposition of such fees. In the past the only students who had had to pay for their university education were those who had not obtained sufficiently good results in the competitive entrance exam. Since the fees had been introduced only very recently, several years would need to elapse before their impact could be properly assessed. However, according to official information available, the number of university applicants had increased during the current academic year.

55. A number of financial support schemes were available to students who were unable to pay their own fees. Apart from university scholarships there was also a student loan system, but very few students had so far availed themselves of it, which suggested that they were able to supplement their income through temporary employment.

56. As far as human rights education for the police, armed forces and judges was concerned, information on the subject had already been given in the delegation's written submissions. One noteworthy recent development, however, was the establishment of a training centre for judges.

57. Information on the salaries of teachers and other employees in the public and private sectors was given in Table 8a of the additional statistics. The reason why other public-sector employees earned higher salaries than teachers was that those sectors were profit-making. The Bulgarian Government recognized the important role of teachers in society. However, their salaries were financed by the State and municipal budgets and, in the present economic climate, it was not possible to improve their situation.

58. The national minorities enjoyed the same opportunities as other Bulgarians to exercise their cultural rights. There were special cultural centres for the Roma and ethnic Turkish communities. Musical and other artistic activities for the development and preservation of minority culture and languages were organized in the "cultural homes".

59. Mr. GANTCHEV (Bulgaria) said that the Bulgarian Police Academy had been one of the first police academies in the Balkan region to establish a human rights training centre. Since 1997 more than 1,000 trainee and working police officers had been trained in human rights and refugee law, with the support of the Council of Europe. The police academy had also organized a number of regional seminars with representatives from Turkey, Greece, The former Yugoslav Republic of Macedonia, and Serbia. Agreements had also been signed between the Ministry of the Interior, the armed forces and the Bulgarian Red Cross for the training of members of the armed and police forces in international humanitarian law.

60. Mrs. JIMÉNEZ BUTRAGUEÑO asked why there was no mention of women in the statistics provided on vocational training institutes, despite the fact that there were more female than male students in higher education.

61. Mr. CEVILLE said that his remarks about fees for higher education were based on information contained in a UNESCO report published in 1996.

62. Mr. CEAUSU said that according to paragraph 301 of the report, the teaching of mother tongues other than Bulgarian was not permitted in State-run schools. That was not in keeping with the Bulgarian Government's obligations under the framework Convention for the protection of national minorities. It was worth noting that if State-run enterprises such as electricity supply companies were profit-making, that was because they exercised a monopoly at the expense of consumers, including teachers.

63. Mrs. SREDKOVA (Bulgaria) said that information on the representation of women at different levels of education had been provided in the introductory statement by the head of the

delegation. She failed to understand how UNESCO could make such claims about fees for higher education in 1994 since university fees had not been introduced in Bulgaria until 1999. Perhaps the report was referring to the cost of private schools. In reply to Mr. Ceausu, she stressed that Bulgarian was the only compulsory language in State schools; national minorities could, however, study their mother tongue as an optional subject.

64. Mr. DRAGANOV (Bulgaria) said that the Bulgarian delegation had done its best to provide the Committee with as much information as possible in response to a very large number of questions. He thanked the secretariat for drawing its attention to the "alternative" report prepared by Bulgarian NGOs on the situation in Bulgaria, which the Bulgarian Government would be studying carefully. While the Bulgarian Government was proud of its achievements it readily admitted that there were many problems to be overcome. However, under the circumstances he believed the Government was doing its very best, with the resources available, to achieve progressively the full realization of the economic, social and cultural rights protected by the Covenant. The Committee's suggestions and recommendations would be duly taken into account.

65. The CHAIRPERSON said that he had been greatly impressed by the frankness, thoroughness and seriousness of purpose of the Bulgarian delegation and by the fact that it had endeavoured to answer all the questions raised. On behalf of the Committee he conveyed his thanks to the members of the delegation and wished them every success in the future.

66. The Bulgarian delegation withdrew.

The meeting rose at 1 p.m.

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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE 33RD MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 17 November 1999, at 3 p.m.

Chairperson : Mr. RIEDEL (Vice-Chairperson)
later : Mrs. BONOAN-DANDAN (Chairperson)

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CONSIDERATION OF REPORTS :

a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Argentina

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The meeting was called to order at 3.05 p.m.

ORGANIZATION OF WORK (agenda item 2) (continued)

1. Mr. TEXIER expressed surprise that documents submitted by the Office of the United Nations High Commissioner for Refugees concerning the situation of refugees in Armenia and Mexico had been withdrawn from Committee members' files. That action raised two questions. First, what was the nature of documents communicated to Committee members by the United Nations specialized agencies? If they were confidential, members should not receive them, inasmuch as the deliberations of the committee were public. Second, what should be inferred from the fact that the Secretary of the Committee had taken it upon himself to remove documents that had been in members' files since the beginning of the session?

2. The CHAIRPERSON said the important question raised by Mr. Texier would be subsequently taken up at a private meeting.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Argentina (E/1990/6/Add.16; HRI/CORE/1/Add.74 (core document); E/C.12/Q/ARG/1 (list of issues to be raised); written replies to the list of issues prepared by the Argentine Government (document distributed in the meeting room without a symbol, in Spanish only))

3. At the invitation of the Chairperson, the members of the Argentine delegation took places at the Committee table.

4. Mrs. NASCIMBENE de DUMONT (Argentina) said that no representatives of the ministries that had participated in the drafting of the report had been included in the delegation, owing to the transfer of powers in progress following the 24 October elections which had been won by a coalition of the main opposition parties. By way of introduction, she would summarize the manner in which economic, social and cultural rights in Argentina had evolved since the Committee's consideration of Argentine's previous report in November 1994, in the light of the global economic context.

5. As the International Monetary Fund (IMF) had recently observed, the 1990s had not been a good decade for global economic development and had shown how vulnerable the developing countries' economies were to external crises. Since the submission of its previous report in 1994, Argentina had been affected by three successive external crises: the Mexican crisis (1994-95), the Asian-Russian crisis (1997-98) and the devaluation of the Brazilian currency (1999).

6. The Mexican crisis, basically regional in scope, had prompted a serious economic recession in Argentina, which had lasted over a year, triggering inter alia a decline in production, an increase in unemployment and a reduction of tax revenue. The Asian-Russian crisis, the effects of which had been felt worldwide, had undermined investor confidence in the economies of emerging countries, with a consequent rise in interest rates and slowing down of industrial activity in Argentina, as well as a serious deterioration of its

external trade, owing to the slump in the prices of Argentina's principal exports (wheat,
oil-producing plants and petroleum). Lastly, over the previous 12 months the Argentine economy had been hard hit by the effects of the economic problems of Brazil, its main Southern Common Market (MERCOSUR) partner.

7. The effects of those successive crises were still being felt in Argentina. Its gross domestic product (GDP) had fallen, investment levels had dropped and job creation had flagged. The increase in international interest rates had pushed up Argentina's foreign-debt payments. A sluggish world economy and cheap raw materials made it difficult to restructure exports to compensate for Brazil's reduced demand. Small and medium-sized enterprises - the most dynamic job-creators - had been particularly hard hit. When examining the situation of economic, social and cultural rights in Argentina or other developing countries, the Committee should bear in mind all the economic conditions affecting them.

8. The CHAIRPERSON, observing that the Argentine Government's written replies to the questions on the list of issues (E/C.12/Q/ARG/1) were available only in Spanish, invited the Argentine delegation to summarize briefly the replies to questions 1-7 of section I, entitled "General Information".

9. Mrs. NASCIMBENE de DUMONT (Argentina), referring to question 1, said there were two methods of poverty assessment. So-called unmet basic needs were assessed every 10 years at the time of the national census. At the time of the latest census in 1991, 6,427,000 people, or 19.9 per cent of the population, were living in households where their basic needs were unmet, 44 per cent of them children under 15 years of age. The other method for measuring poverty was unconnected with the census and was applied by means of surveys conducted by the National Statistics and Census Institute on the basis of household incomes. A household was considered to be poor when the family's total income was insufficient for it to procure a specified range of essential goods and services. In 1989, when Argentina had been hit by hyperinflation, household-income estimates had shown that 38.2 per cent of households and virtually half the population (47.3 per cent) were poor. That percentage had begun to decline in 1991, reaching a low in 1994 before climbing again as a result of the external economic crises. In May 1998, 17.7 per cent of the population had been considered poor or indigent.

10. No centralized data were available on the indigenous population; what information there was had either been furnished by the National Institute of Indigenous Affairs (INAA) or had emerged from the household surveys. The rights of indigenous inhabitants had been officially recognized for the first time in the Constitution that had come into effect with the 1994 constitutional reform. A variety of sources indicated that Argentina had an indigenous population of between 800,000 and 1 million from 17 ethnic groups spread out over 15 provinces and accounting for 1.5 per cent of the total population. During the previous 20 years many indigenous inhabitants had abandoned the countryside and settled in the towns, where they lost their cultural identity, making them more difficult to survey. The competent bodies were looking into ways of counting the indigenous population during the 2000 census.

11. With regard to question 3, according to the Constitution the Covenant had constitutional status so that there was no possibility of conflict. In reply to

question 4, she said the Argentine Government had certainly acted on the Committee's concluding observations on the previous report and had ratified many international human rights instruments. Concerning question 5, the adoption of an optional protocol to the International Covenant on Economic, Social and Cultural Rights was currently being studied by the competent government bodies, which had not yet reached a final decision. However, Argentina agreed, in principle, that it was a good idea for international bodies to examine complaints from individuals. Indeed, the Argentine authorities had already ratified the Optional Protocol to the International Covenant on Civil and Political Rights and had recognized the jurisdiction of the Committee against Torture in accordance with article 20 and 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

12. Regarding information and publicity concerning the rights set forth in the Covenant, Committee members could refer to the written replies containing a very long list of all the activities organized by various ministerial departments, institutes and bodies responsible for the defence of human rights, in the form of lectures, courses and information campaigns. Turning to question 7, she said that all the competent provincial ministries and institutions had participated in the preparation of the second periodic report, but that the non-governmental organizations (NGOs) had not taken part. However, once completed in April 1997, the report had been published and transmitted to the NGOs so that they could submit their comments to the Committee.

13. Mr. SADI remarked that the existence of economic difficulties or crises, whether internal or external, could not be used to justify any decline in the exercise of human rights. In the first place, all countries were exposed to difficulties or one time or another; secondly, when faced with difficulties it was incumbent on the country's leaders to set macroeconomic priorities precisely in order to guarantee the broadest possible enjoyment of rights. As a case in point, it would be helpful to the Committee to know the Argentine Government's priorities, so as to be able to determine whether its policy was consistent with Covenant requirements. Countries must also bring defence of the rights enshrined in the Covenant to the fore in their negotiations with international financial institutions such as the World Bank.

14. He would like to know precisely what the indigenous inhabitants' position was in society and whether any of them ever succeeded in occupying high-level posts. On the subject of the extreme poverty affecting a large proportion of the population, he asked whether the economic crises had created rather than exacerbated the situation. Furthermore, noting that the Covenant was rarely, if ever, invoked before the courts, he felt that the Argentine authorities might do more to ensure that people knew how to avail themselves of their rights. Had the Covenant ever been invoked in connection with the violation of economic rights?

15. Mr. CEVILLE noted with satisfaction that the Covenant and other international human rights instruments enjoyed constitutional status in Argentina, but requested more concrete information on the possibility of invoking them before the courts. He would like to know whether defendants had easy access to the machinery of justice, whether facilities such as public defenders and mediators existed in sufficient numbers, whether court proceedings were prompt and effective and whether victims were compensated.

16. Mr. TEXIER said he had two suggestions to make. First, he called upon the State party to give more publicity to the Covenant. Indeed, the publicity required in all countries in order to ensure awareness that the Covenant could be invoked before the courts was a task not only for the Committee, but also for the States themselves, which were called upon to train judges and inform the public at large, notably by disseminating the text of the Covenant in universities and schools. Secondly, the report submitted to the Committee was less useful if it was confined to governmental circles. Like the Committee's observations, it should also serve to establish dialogue between the State and NGOs and trade unions.

17. Mr. ANTANOVICH stressed the paucity of the information furnished on the indigenous population - he preferred the term "peoples", since all peoples, by virtue of article 1 of the Covenant, had the right to self-determination. Problems relating to ethnic minorities existed and were a source of concern in virtually all countries. He would also like the delegation to explain why economic growth had not been accompanied by poverty reduction in Argentina.

18. Mr. AHMED recalled that in August 1998 the Sub-Commission on the Promotion and Protection of Human Rights had adopted a draft resolution, the text of which was to be incorporated in resolution 1998/14, in which it had affirmed that situations of poverty amounted to a denial of the rights of individuals. He was concerned that Argentina, a traditionally rich country, currently posted the highest unemployment rate in all Latin America. Calling attention to an excerpt from the 1998 report of Social Watch cited in the country analysis and denouncing the shrinking of the middle class and increasingly precarious living conditions, he asked what measures had been put in place, or were envisaged, by the Government to counter the rising tide of poverty and the cuts in social security benefits.

19. Mr. HUNT noted with satisfaction that economic, social and cultural rights could be invoked in judicial and quasi-judicial proceedings (including through the Office of the Under-Secretary for Human and Social Rights). He would like to know whether those rights were systematically taken into consideration in policy formulation; in other words, were there persons in the various ministries who ensured that new policies were consistent with the Covenant?

20. Mr. RATTRAY remarked that the economic crisis could not be used to justify failure to apply certain provisions of the Covenant. On the contrary, it was in times of crisis that rights needed to be more closely protected and that the Covenant fully came into its own. He also requested further details on the status of the Covenant vis-à-vis the domestic legislation. While observing that the Covenant had constitutional status in Argentina, he would like to know whether it was in any way restricted by the Constitution. Lastly, he was pleased to note that the Supreme Court had recognized that equal treatment had meaning only when conditions were equal, and asked whether Argentina had already considered taking affirmative action in favour of vulnerable and disadvantaged groups, especially the indigenous population.

21. Mrs. BONOAN-DANDAN took the Chair.

22. Mr. THAPALIA requested unemployment figures disaggregated by sex and region, as well as further information on specific government initiatives to

reduce poverty and on the obstacles encountered. Statistics on such issues as wages, employment and domestic violence would give the Committee a better idea of de facto equality and non-discrimination in Argentina.

23. Mrs. NASCIMBENE de DUMONT (Argentina) stressed that her Government, like so many others, was trying to adapt to the current global situation and open up the country's economy, which it could not do without loans. The international financial institutions, such as the IMF, imposed certain conditions on the country when loans were being negotiated, especially in the fields of employment and social security. It would therefore be helpful if the Committee would share its criticisms,

suggestion and concerns not only with delegations, but with institutions like the IMF as well.

24. On the subject of the indigenous peoples, she affirmed that 1994, with its constitutional reform, had been a turning point. The reparation process, which included restitution of land, promotion of indigenous cultures and creation of bilingual schools, was in its early stages but was well in hand.

25. The phenomenon of extreme poverty was not new to Argentina, and periods of hyperinflation, political instability and economic crisis had given rise to thorny structural problems. There was no single answer, but the theme of poverty was indeed a priority at all levels of the State: more than 185 different plans and programmes to help disadvantaged persons were currently in progress throughout the country. Numerous courses, workshops and awareness-raising campaigns were also being conducted to make people more familiar with the international human rights instruments.

26. As to public defenders, 183 had been allocated to the capital and the provinces in an effort to broaden and facilitate access to justice. Replying to a question from Mr. Texier, she said that human rights courses, including the international human rights instruments to which Argentina was a party, had been provided for judges and magistrates. She welcomed Mr. Texier's suggestion of initiating dialogue between the provincial authorities and NGOs, a suggestion that might usefully be repeated in the Committee's concluding observations.

27. She said that the increase in Argentina's revenue had not been accompanied by a reduction in poverty owing to an essentially structural problem. Extreme poverty was indeed a denial of human rights, and some 3 million Argentines lived below the poverty line. However, the authorities had introduced measures social support measures in favour of the affected population, notably in the form of job and social security schemes relating basically to the informal sector of the economy. The Government was also studying an immediate emergency plan to assist the
3 million Argentines living below the poverty line.

28. In conclusion, her delegation would transmit to the Committee at a later date precise information on the rulings of the Supreme Court and lower courts in which the Covenant had been invoked.

29. Mr. THAPALIA reiterated his question to the Argentine delegation as to whether it could provide statistics disaggregated by sex in particular, and his

request that it indicate precise corrective measures taken by the Government. What was the inflation rate in Argentina? Was there de facto or de jure discrimination in employment, wage policies or elsewhere?

30. Mr. CEVILLE said he would have liked the delegation to be more precise in its presentation. Its explanations of the Argentine legal system had left him confused. States parties to the Covenant were generally divided into two categories: those with a monistic system, where the Covenant was applied automatically, and those with a dualistic system, where the Covenant needed to be integrated into the domestic legislation before it could be enforced. Which system had Argentina chosen?

31. Mr. GRISSA remarked that he had not received a reply to his question concerning the specific measures taken by Argentina to guarantee the rights of the indigenous peoples as a minority. It was not merely a question of restoring their lands; thought needed to be given to how their rights as citizens would be protected.

32. Mr. ANTANOVICH asked whether the indigenous population was regarded as a people in Argentina.

33. Mrs. NASCIMBENE de DUMONT (Argentina) explained that the country had a monistic legal system. Replying to question 8 concerning the indigenous peoples, she repeated that a great deal had been achieved in the wake of the 1994 constitutional reform, particularly regarding recognition of the indigenous inhabitant's right to their own identity, to bilingual education and to ownership of land. That had of compromise required the adoption of legislation and enabling decrees, and the representatives of the indigenous peoples had been involved through INAA. University scholarships had been awarded to students from indigenous communities in an effort to find a short-term or longer-term response to the shortage of teachers speaking indigenous languages. A great many books had also been published in the Mapuche, Kolla and other languages.

34. As to the return of lands to the indigenous communities, the Government had made great strides and had established a register of indigenous lands. Agreements had been concluded with most of the indigenous communities for the transfer to them of public land, particularly in the provinces of Jujuy and Chubut, and shortly in Río Negro. Agreements had been signed with other provinces for regularizing land titles. In the province of Neuquén, over 70,000 hectares had been restored to some dozen Mapuche communities. Most Argentine provinces' indigenous communities had opted for communal possession of land. Regarding the eviction orders received by the Mapuche community in Neuquén province - the so-called "Pulmarí" affair mentioned in question 9, the Government had attached such importance to the matter that the Procurator General had personally defended the Mapuche chief concerned Antonio Salazar.

35. Mr. CHELIA (Argentina), referring to the return of ancestral lands to the Kolla, Wichi, Chobote, Toba, Chulupi and Tapiete communities (question 10), explained that INAA had stepped up its action to find a favourable solution to the problems provoked by the allocation of two parcels of land to those communities. INAA had offered technical and financial assistance to the Salta Provincial Government for the purpose, but had so far received no response. It should also be pointed out that on 19 March 1997 the Federal Government had

bought back 125,000 hectares from the Santiago Estate (Finca Santiago) for the Kolla community.

36. Mrs. NASCIMBENE de DUMONT (Argentina), replying to question 11, said that in 1997 the National Institute to Combat Discrimination, Xenophobia and Racism (INADI) had been created in 1997 although it was mentioned in the 1996 core doc. to formulate national policies and practical measures for combating those phenomena. Some of its duties were to conduct educational and information campaigns, collect and update information on international law, receive complaints of discriminatory practices and apply to the competent judicial or administrative bodies when there was good reason to believe that discriminatory acts had been committed. INADI had already conducted information campaigns and set up a telephone hotline for persons wishing to report discriminatory or racist acts. Many complaints of all sorts of discrimination had already been received and had been followed by concrete measures. For instance, the Argentine Shooting Federation, whose statutes had contained provisions discriminating against women, had been made to amend them. Also, a discotheque in the town of Rosario had been temporarily closed down for denying entry to a black Brazilian citizen.

37. Replying to question 12, she stressed that there was complete equality between men and women under civil, family, commercial, labour and criminal law. The Convention on the Elimination of All Forms of Discrimination against Women had enjoyed constitutional status since 1994. In respect of labour, the law on employment contracts prohibited any discrimination based on sex or civil status. In practice, however, in Argentina as in almost all countries, women's salaries in the private sector were lower than men's. The minimum age for marriage was currently 16 for women and 18 for men.

38. Regarding question 14, pages 37-45 of the written replies contained detailed information on the proportion of women in positions of responsibility in the public and private sectors. Women held senior posts in all ministries, but for cultural reasons, they were still outnumbered by men. It would take time for attitudes to change, and the Government was actively working on the matter.

39. Mr. TEXIER asked what obstacles were preventing Argentina from ratifying the ILO Indigenous and Tribal Peoples Convention (No. 169), and whether a settlement of the Pulmarí dispute was in sight.

40. On the subject of immigrants, article 31 of the Immigration Act prohibited the employment not only of illegal aliens but of certain foreigners residing legally in Argentina. It was to be feared that the situation might lead to acts of discrimination. It would be interesting to discover what the Argentine Government was doing to regularize the situation of persons living illegally and in poverty in Argentina, who could not exercise their rights to health, education or work.

41. Mr. WIMER ZAMBRANO asked the Argentine delegation to indicate, with regard to the indigenous communities, not only the total area of land for which title deeds had been issued, but also the number of hectares claimed by those communities, to be able to judge how far their claims had been met. The 1994 Constitution's recognition of the rights of indigenous peoples was a historic

event. In the nineteenth century Argentina had attempted to wipe out the indigenous peoples and had gone on to ignore them until the advent of Peronism. In determining whether a person belonged to an indigenous community, the very vague concept of race should be replaced by cultural criteria such as language. The indigenous inhabitants must enjoy not only the same rights as other citizens, but specific rights that would enable them to preserve their identity.

42. Mrs. JIMÉNEZ BUTRAGUEÑO requested further information on the role played by older people in handing down the values and culture of the indigenous communities.

43. Mr. MARCHÁN ROMERO asked whether there were non-heterosexual forms of union and whether marriages celebrated in accordance with the laws and customs of the indigenous communities were recognized by the Argentine authorities.

44. Mr. HUNT inquired about the Argentine Government's position in respect of the draft United Nations Declaration on the Rights of Indigenous Peoples.

45. Mrs. NASCIMBENE de DUMONT (Argentina) said the obstacles to the Executive's ratification of ILO Convention No. 169 were about to be removed. It had been the Ministry for Economic Affairs that had raised some objections to certain provisions of the Convention.

46. Many of the criticisms levelled at Argentina with regard to its immigration policy were unjust. It should be remembered that Argentina had always been a country of immigration. Between 1983 and 1992 residence permits had been issued to more than 300,000 foreigners, and in 1998 nearly 18,000 foreigners had obtained such permits. As to immigrants from Bolivia and Peru, in 1998 Argentina had concluded with those two countries agreements for simplifying and facilitating the procedure for regularizing the situation of those countries' citizens, thereby precluding them from being exploited through clandestine work. In the area of health, public hospitals were required to treat all persons, whether Argentines, foreigners or illegal inhabitants. Of course, some hospitals in border areas were swamped at times. With regard to education, in Buenos Aires, for example, all children, including those whose parents' residence situation was irregular, were admitted to pre-school and primary education.

47. The Argentine delegation had taken careful note of Mr. Wimer Zambrano's remarks. True, it was sometimes difficult to determine to what ethnic community a particular person belonged, but that was because many communities had attempted to integrate into Argentine society, thus losing all or part of their cultural characteristics.

48. In Argentina the family was defined as the union between a man and a woman, and there were no plans to amend the Civil Code.

49. Mr. CHELIA (Argentina) added that the only article of the draft United Nations Declaration on the Rights of Indigenous Peoples that posed a real problem was article 3, which stipulated: "Indigenous peoples have the right of self-determination." Most of the States in the Working Group on Indigenous Populations were in favour of a restrictive interpretation of that provision. For its part, Argentina had requested that article 3 explicitly state that the

exercise of that right should not prejudice States' territorial integrity or political independence.

50. Mr. WIMER ZAMBRANO asked why the regulatory text determining the procedures for applying article 75 of the 1994 Constitution had still not been adopted.

51. Mr. HUNT asked whether, in the various ministries, human rights specialists were responsible for ensuring that the Covenant was taken into account in policy formulation. It would also be interesting to know whether the indigenous communities had the right to have their own legal and educational system.

52. Mr. CHELIA (Argentina) said the Government was helping indigenous communities to set up their own schools. However, the education imparted such establishments would need to conform to the minimum educational standards prescribed by the State, in accordance with article 13, paragraph 3, of the Covenant. The Argentine State also recognized the indigenous communities' traditional forms of organization.

53. Mrs. NASCIMBENE de DUMONT (Argentina) said that all outstanding questions would be answered the following day or in the next periodic report.

The meeting rose at 6 p.m.